

Suraj Parkash Vs. Emperor

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Court : Mumbai

Decided On : Jan-19-1945

Reported in : (1945)47BOMLR395

Judge : Patrick Spens, Kt., C.J., ;Varadachariar and ;Zafrullah Khan, JJ.

Appellant : Suraj Parkash

Respondent : Emperor

Judgement :

Patrick Spens, Kt., C.J.

1. In this appeal it has been submitted that the appeal should be dismissed on the ground that under Order XVII, Rule 1, it was presented out of time. It has also been questioned whether the order appealed against is a final order within the meaning of those words in Section 205(1) of the Government of India Act, 1935. We do not propose to deal with either of those points, for in any event in our judgment the offence under Section 408 on Section 409 of the Indian Penal Code with which the appellant is charged is not one in respect of which the protection of Section 270 of the Government of India Act, 1935, can be claimed.-(See *Hori Ram Singh v. The Crown* (1939) F.C. 159) The appeal is accordingly dismissed.

2. We would, however, take this opportunity of saying that in cases to which Section 270 of the Constitution Act applies, the words of the section in our view require that if proceedings be instituted before sanction under the section is

obtained, such proceedings are wholly void, and new proceedings must be instituted after the sanction is obtained. Unless this view is strictly observed, the protection intended by the section would be liable to become in practice seriously reduced.

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