

In Re: Annapurnabai

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Court : Mumbai

Decided On : Mar-08-1877

Reported in : (1877)ILR1Bom630

Judge : Kemball and ;Nanabhai Haridas, JJ.

Appellant : In Re: Annapurnabai

Judgement :

1. It appears to the Court that the provisions of Chapter XXX of the Code of Criminal Procedure do not apply to such a case. Section 415 and the two succeeding sections contemplate proceedings preliminary to and independent of inquiry. Upon general principles where there has been an inquiry or a trial, and the accused person is discharged or acquitted by any Criminal Court, that Court is bound to restore the property, the subject matter of the investigation, into the possession of the person from whom it is taken, unless, as provided for in Section 418, such Court is of opinion that 'any offence appears to have been committed' regarding it, when such order as appears right for the disposal of the property may be made. It is clear that the 2nd Class Magistrate did not consider that any offence had been committed in respect of the property in question: therefore, Section 419 gave the District Magistrate no jurisdiction to interfere. On this ground the Court will cancel his order. Whatever may have been the merits of the case, the Magistrate of the District had no sort of right to assume to himself the functions of a Civil Court.

2. It is to be regretted that the Court is unable to afford to the applicant any adequate remedy for the wrong done her.

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