

Nazir Ahmad Vs. Emperor

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Court : Mumbai

Decided On : Jan-20-1936

Reported in : (1936)38BOMLR698

Judge : Blannesburgh, J.

Appellant : Nazir Ahmad

Respondent : Emperor

Judgement :

Blanesburgh, J.

1. Their Lordships desire to in this case the very exceptional circumstances in which alone they will humbly advise His Majesty to grant leave to appeal in a criminal case. They would not have it supposed that the advice which they propose to tender to His Majesty in this case indicates any weakening on their part of the most salutary judicial rule which prevents this Board from entertaining such applications, the Board not being a Court of Criminal Appeal, except in the most exceptional circumstances. What actuates the Board in advising His Majesty to grant leave to appeal in this instance is that it appears that with reference to a section of the Code of Criminal Procedure, which is of vital importance to accused persons, there has been a difference of opinion in the High Courts of India which, however it be resolved, ought to be resolved so that in the future there will be no doubt as to the law declared by that section. It is not a case of a view being taken

by the High Court in the case under appeal, which, whether the view was right or wrong, would not be in the circumstances any justification for this Board entertaining an application for special leave to appeal, it is a case in which there is a pronounced difference of opinion on this most important question amongst some of the High Courts in India, and it is because their Lordships think that it would be salutary that that doubt and difference of opinion should be finally resolved that in this case they will humbly advise His Majesty to grant special leave to appeal.

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