

Emperor Vs. Shidlingappa Gurulingappa

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Court : Mumbai

Decided On : Mar-24-1926

Reported in : (1926)28BOMLR668

Judge : Norman Macleod, Kt., C.J. and ;Crump, J.

Appeal No. : Criminal Application for Revision No. 37 of 1936

Appellant : Emperor

Respondent : Shidlingappa Gurulingappa

Judgement :

Norman Maeleod, Kt., C.J.

1. In this case the applicant was convicted of offences under Sections 354 and 328, Indian Penal Code, and sentenced to lines of Rs. 50 and Rs. 30, respectively, by the First Glass Magistrate, Bagevadi. He appealed to the Sessions Judge. The Sessions Judge held that no appeal lay on the ground that Section 35, sub Section 3, of the Criminal Procedure Code, providing that the aggregate of consecutive sentences passed under the section in case of conviction for several offences at of trial should for the purpose of appeal be deemed to be a single sentence, could refer only to sentences of imprisonment, So far we think he was right. But the right of appeal against a conviction by a Magistrate of the First Class is given by Section 408 That right is restricted by the provision of Section 413 which directs that 'notwithstanding anything hereinbefore contained, there shall be no appeal by

a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.

2. In this case the Magistrate has passed two sentences of fine amounting in the aggregate to Rs. 80. Therefore, in effect, a sentence of fine exceeding fifty rupees has been passed and an appeal lies, We return the case to the Sessions Judge to hear the appeal according to law.

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