

In Re: Baba Yeshwant Desai

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Court : Mumbai

Decided On : Apr-11-1911

Reported in : (1911)13BOMLR505

Judge : N.G. Chandavarkar, ;Kt. and ;Heaton, JJ.

Appeal No. : Criminal Application for Revision No. 58 of 1911

Appellant : In Re: Baba Yeshwant Desai

Judgement :

Chandavarkar, J.

1. The question before us is whether the District Magistrate has jurisdiction under Sections 437 of the Code of Criminal Procedure to order a fresh inquiry into the case of a person 'discharged' by a Subordinate Magistrate under Sections 119 of the Code. The decision of the question turns upon the interpretation of the words 'any accused person' and 'discharged' used in Sections 437. There is no definition of 'accused person' in the Code and we see no sound reason for confining its application to a person against whom 'a complaint' has been made under Sections 200 of the Code. Persons proceeded against under Chapter VIII of the Code are persons against whom there is an accusation in the ordinary acceptance of the word. The word 'discharged' is also not defined in the Code and there is no valid ground for departing in respect of it from the rule of construction that where in a Statute the same word is used in different sections it ought to be interpreted in the

same sense throughout unless the context in any particular section plainly requires that it should be understood in a different sense. We think that we should follow the rulings of the Allahabad High Court, Queen-Empress v. Muttasaddi Lal (1) and King-Emperor v. Fyaz-ud-din (2), which follow the decision of this Court in Queen Empress v. Mona Puna(s); and not the rulings in Queen-Empress v. Iman Mondal (4) and Velu Tayi Ammal v. Chidambaravclu Pillai (5). The rule is accordingly discharged.

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