

Emperor Vs. Usman Haroon

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Court : Mumbai

Decided On : Jan-07-1947

Reported in : AIR1947Bom409

Judge : Leonard Stone, Kt., C.J. and Lokur, J.

Appeal No. : Criminal Application for Transfer No. 697 of 1946

Appellant : Emperor

Respondent : Usman Haroon

Judgement :

Leonard Stone, Kt., C.J.

1. The report of the Chief Presidency Magistrate which we called for by our judgment of December 20, 1946, has now been received and by it and by a circular which has been issued by the Chief Presidency Magistrate to all his Magistrates it appears that new arrangements have been made for the distribution of magisterial work arising out of the disturbances and that there will now be three Magistrates at the Esplanade Police Court whose duty it will be to try these cases. The cases will go into the lists of these three Magistrates, on a rotation basis depending entirely upon the day upon which any particular case first happens to come before the Court. In our opinion that is a very satisfactory arrangement. We also note that the Chief Presidency Magistrate has sent a copy of our judgment containing our criticism with regard to the variety of sentences for the same

offence to all his Magistrates and that the Magistrates have now the question of evolving a system for these sentences well before them.

2. We are asked by Mr. Peerbhoy and Mr. Parpia who represent the six accused in these transfer applications that in spite of the withdrawal of the allegation of actual bias against Mr. Barot and our exoneration of him, these cases should still be transferred, on the ground that the whole of the circumstances which have come to light in the investigation of this matter must have introduced into the minds of the accused a feeling that they could never get a fair trial before this Magistrate. In our opinion that submission is not well founded. These applications, as we have already stated, have served a very useful purpose, but it is now quite clear that in view of our previous judgment these six accused persons will get before whichever Magistrate their cases may come a full and proper trial. We do not know what will happen to these six cases in the new distribution of magisterial business which the Chief Presidency Magistrate's report informs us has been made. It may well be that in levelling out the work they may go to the board of some other Magistrate, or it may be that the learned Magistrate, Mr, Barot, may himself ask to be relieved of them. But in the circumstances and in view of the directive and guidance given by our judgment there no longer exists any reason why we should interfere judicially. We leave the matter to the Chief Presidency Magistrate. The rule in each case is discharged.