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In Re: Madho Ram

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1899)ILR21All181

Judge : Arthur Strachey, C.J. and ;Knox, J.

Appellant : In Re: Madho Ram

Judgement :

Arthur Strachey, C.J.

1. This is an application to the Court to set aside an order passed by the District Judge of Saharanpur under Section 36 of th6 Legal Practitioners' Act, XVIII of 1879, as amended by Section 4 of Act No. XI of 1896. That order of the District Judge was an order including the name of this petitioner in the list of persons proved to the satisfaction of the Judge habitually to act as touts. The only ground stated in the petition to us is: 'Because the finding is against the weight of the evidence.' We are of opinion that this Court ought not to interfere, on any such ground as that, with an order passed by a subordinate Court under Section 36 of the Legal Practitioners' Act. The law gives no right of appeal to this Court from any such order. As regards revision, such cases are clearly not criminal proceedings to which the revisional powers of the High Court under Section 439 of the Code of Criminal Procedure would apply. They do not fall within the powers of civil revision conferred by Section 622 of the Code of Civil Procedure. There remain only the powers of superintendence conferred by Section 15 of the High Courts Act. Under

that Section this Court has, no doubt, very wide powers of superintendence over the proceedings of subordinate Courts; and it is possible to imagine cases in which, in the exercise of those powers, it might be the Court's duty to interfere with an order passed under Section 36 of the Legal Practitioners' Act. Although under Section 36 the Courts have an extremely large discretion in framing lists of touts and including the names of particular individuals in such lists, the conditions prescribed by the Section must of course be observed: for instance, no person's name is to be included unless he has had an opportunity of showing cause against such inclusion, and in all oases the person must be proved to the Court's satisfaction habitually to act as a tout, and must be so proved by evidence, whether of general repute or otherwise. But in considering whether this Court should interfere in the exercise of its powers of superintendence, one must bear in mind, first, that the test prescribed by Section 36 is proof to the satisfaction of the Court framing the list and of no other tribunal; and, secondly, that it is settled that this Court is not competent, under Section 15 of the High Courts' Act, to interfere with the order of a Subordinate Court, merely on the ground of error in law or error in fact. Its powers of superintendence are not applicable where the only question is whether the decision of the lower Court is against the weight of evidence. That is the only question raised by the present petition. It is admitted that there is evidence upon which the lower Court has acted--evidence on the one side and on the other. We must, therefore, decline to interfere and must dismiss the application.

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