

Queen Vs. Jagat Mal

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1875)ILR1All162

Judge : Robert Stuart, C.J.

Appellant : Queen

Respondent : Jagat Mal

Judgement :

Robert Stuart, C.J.

1. This is an application for revision of the order of the Judge of Farukhabad made in an appeal to him by Ram Gholam, Gula Mal, and Jagat Mal. These three persons were, along with others, tried and convicted by Mr. C.W. Watts, Joint Magistrate of Farukhahad, of false swearing, under Section 193, Indian Penal Code, and respectively sentenced by that officer to two years' rigorous imprisonment.

2. The circumstances out of which the case arose are these. In January last three men, Kanhaiya, Bishan, and Lalman, were prosecuted and convicted by the Judge on a charge of grievous hurt, under Section 326, Indian Penal Code. After convicting and sentencing them, the Judge directed that ten of the witnesses who had been examined in the case before him, including Ram Gholam and Gula Mal, should be tried by the Magistrate of the District on a charge of giving false

evidence. On receipt of the Judge's order, Mr. Harrison, the Magistrate, transferred the case to Mr. Watts, the Joint Magistrate, who had made the commitment in the grievous hurt case to the Sessions Court. In the course of his investigation for that commitment, Jagat Mal had been examined as a witness, and had then, in Mr. Watts' opinion, given false evidence, and Mr. Watts, having represented this state of things to the Magistrate, received sanction for Jagat Mal being included in the proceedings directed by the Judge under Section 193. Mr. Watts having concluded the inquiry, committed the whole eleven accused for trial before himself, and convicted Ram Gholam, Gula Mal and Jagat Mal, and another (deferring judgment as regards the remaining seven). There was an appeal to the Judge, but the result was its dismissal by him.

3. Ram Gholam, Gula Mal, and Jagat Mal now apply to this Court in revision, urging that Mr. Watts had no jurisdiction to try and convict them, because, according to the terms of Section 471 of the Criminal Procedure Code, he should have sent the case to another competent Magistrate. This, however, is a clearly mistaken view of the law, Mr. Watts being fully competent for all he did. The only case where a Criminal Court cannot itself try is that described in Section 473, which relates exclusively to contempts of Court. Here the charge was not for a contempt, but under Section 193 for false swearing. The conviction and sentence in the case of the three applicants are approved and confirmed, and their application to this Court is refused.

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