

Emperor Vs. Dulla and ors.

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Court : Allahabad

Decided On : Jul-07-1922

Reported in : (1923)ILR45All58; 74Ind.Cas.1054

Judge : Ryves, J.

Appellant : Emperor

Respondent : Dulla and ors.

Judgement :

Ryves, J.

1. This is a reference by the learned District Magistrate of Farrukhabad. It appears that three persons were acquitted by an Honorary Magistrate under Section 247 of the Criminal Procedure Code because on the day fixed for the hearing of the case the complainant did not appear. The complainant filed another complaint charging the same accused with having committed the same offence on the same allegations of fact, before the same Magistrate. He referred the point as to whether having regard to Section 403 of the Criminal Procedure Code he could try the case again and, having been directed to do so by the Sub-Divisional Officer, issued proceedings against the accused. The learned District Magistrate has referred the case to this Court recommending that further proceedings be quashed on the ground that under Section 403 of the Criminal Procedure Code the accused persons cannot be again tried. This was the view taken by this Court in *Empress v.*

Bhawani Prasad Weekly Notes, 1885 p. 43. The same view was taken in the case of Panchu Singh v. Umor Mahomed Sheikh (1899) 4 C.W.N. 346 and In the matter of Guggilapu Paddaya of Palakot (1910) I.L.R., 31 Mad., 253. Following these decisions I accept the reference and direct that the papers be returned.

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