

King-emperor Vs. Munna

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1902)ILR24All151

Judge : Aikman, J.

Appellant : King-emperor

Respondent : Munna

Judgement :

Aikman, J.

1. In this case one Munna Tewari was called on to furnish security for keeping the peace. It appears that he is a resident of the Gorakhpur district. Proceedings were taken against him by the District Magistrate of Basti under the provisions of Section 107, Sub-section (2) of the Code of Criminal Procedure, he not being then within the local limits of that Magistrate's jurisdiction. After taking proceedings under that section the District Magistrate, professing to act under the provisions of Section 192 of the Code of Criminal Procedure, transferred the case of which he had thus taken cognizance to a Magistrate of the first class subordinate to him, who passed the order for security. In the referring letter of the learned Sessions Judge the question is raised as to whether the District Magistrate, after instituting proceedings under Section 107(2), had any power to transfer the case. This question is not altogether free from difficulty. But after consideration, I am of

opinion that the intention of the Legislature was to limit the jurisdiction in regard to institution of proceedings in cases like the present to a Chief Presidency or District Magistrate; but that when such Magistrate has, in the exercise of his discretion, directed institution of proceedings, there is nothing in the law to prevent him from transferring the case to a Magistrate otherwise qualified to complete the proceedings. In this case it appears that a previous application for revision had been made to the District Magistrate. The learned Sessions Judge ought therefore, with reference to the provisions of Section 435, Sub-section (4), to have referred the applicant to this Court. As, however, the proceeding has come to my knowledge, I have dealt with it under Section 439, Sub-section (1) of the Code of Criminal Procedure. For the reasons set forth above I am of opinion that the Magistrate of the first class had jurisdiction to make the order which he did, and I direct that the record be returned.