

Emperor Vs. Umer-ud-din

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Court : Allahabad

Decided On : Feb-15-1909

Reported in : (1909)ILR31All317

Judge : Aikman, J.

Appellant : Emperor

Respondent : Umer-ud-din

Judgement :

Aikman, J.

1. In my opinion no sufficient ground exists for interfering in this case. Mohammad Farookh, a soldier serving With his regiment in Burma, sent an intimation to the District Magistrate of Bijnor that he had authorised his brother to bring a complaint against the applicant, Umer-ud-din, for enticing away his (Mohammad Farookh's) wife. This charge against the accused was heard by a Magistrate. When evidence for both sides had been recorded, it struck the Magistrate that the husband's brother held no authority to institute the case and he ended his judgment with the words 'I therefore acquit the accused.' Thereupon the husband, having obtained leave, came from Burma and instituted a fresh complaint. In answer to this the applicant set up the previous acquittal. In my opinion the so-called acquittal is, under the circumstances, no bar to the trial of the present charge. The Magistrate's previous finding amounted to this that there was no complaint before him of which

he could take cognizance. If it were necessary I should have no hesitation in setting aside the previous so-called acquittal and directing the present trial to proceed. Vide Queen Empress v. Balwant (1886) I.L.R. 9 All. 135. But I do not think this is necessary and content myself with dismissing the application.

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