

Zahid Husaln Vs. Emperor

Zahid Husaln Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/449939

Court : Allahabad

Decided On : Feb-01-1937

Reported in : AIR1937All421

Appellant : Zahid Husain

Respondent : Emperor

Judgement :

ORDER

Ganga Nath, J.

1. Criminal Revisions Nos. 985, 986 and 987 of 1936 have been heard and disposed of with this Criminal Revision (No. 984 of 1936). These are applications in revision against the conviction and sentence of the applicant under Rule 12(1)(h), U.P. Sugarcane Rules. In all the cases the same point of law arises. Under Rule 9(1) all payments for cane purchased for a sugar factory shall be made at the purchasing centre within 24 hours of demand; provided that in the case of purchases made at such purchasing centres (other than the sugar factory premises) as may be approved by the District Magistrate, payments shall be made within seven days of demand. Under Rule 12(1)(h), a licensed purchasing agent or any person acting on his behalf who fails to make payments for cane purchased for a sugar factory in accordance with the provisions of Rule 9(1) becomes liable for punishment with a fine which may extend to Rs. 500. The applicant has been

charged in all these oases with not making payments for cane purchased by him for sugar factory within the time specified. The prosecution was started on a complaint made by the learned District Magistrate. Rule 14, Clause (1) lays down:

No prosecution shall be instituted under these rules except upon complaint made by or under authority from the District Magistrate, provided that the District Magistrate shall not make a complaint or pass an order for prosecution for an offence under Rule 12(h) unless he is satisfied that there is a general complaint of non-payment within the prescribed time.

2. It has been urged on behalf of the applicant that no complaint could have been made by the District Magistrate unless and until he had satisfied himself that there was a general complaint of non-payment within the prescribed time. Rule 14 deals with two matters, namely (1) the cognizance of a complaint by a Court and (2) the making of a complaint made by a District Magistrate. The word 'shall' in part 2 of the rule deals with the second matter and is only for the guidance of the District Magistrates. As soon as a complaint is made by a District Magistrate it would be presumed that he has satisfied himself that there was a general complaint of non-payment within the prescribed time. It is obvious that unless a District Magistrate is so satisfied he would never make a complaint. As soon as a complaint is made by a District Magistrate the Court is competent to take cognizance of it. Consequently there is no illegality in the oases. There is no force in the applications. They are there, fore rejected.