

Chhedi Vs. Muhammad Ali

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Court : Allahabad

Decided On : Jan-04-1913

Reported in : (1913)ILR35All143

Judge : Tudball, J.

Appellant : Chhedi

Respondent : Muhammad Ali

Judgement :

Tudball, J.

1. In this case one Muhammad Ali made a complaint against the present applicant, Chhedi, charging him with the offence of cheating, under Section 420 of the Indian Penal Code. He had prior to that preferred a complaint under Act XIII of 1859, but had withdrawn that complaint and preferred a complaint of cheating. The Magistrate issued process to Chhedi; a date was fixed; evidence of the prosecution witnesses was taken, and then a further date was fixed for their cross-examination. There were a few postponements and the cross-examination did not take place. Then, suddenly, without examining the accused or framing any charge against him or taking any defence, and relying on the statements in chief of the prosecution witnesses, the Magistrate passed an order purporting to be under Act XIII of 1859, to the effect that Chhedi was either at once to repay the advance of Rs. 60 or give security for Rs. 60 with one surety that he would make two pairs of

boots every week for Muhammad Ali: in default of carrying out one of the two orders already mentioned, he was to undergo rigorous imprisonment for two months. Chhedi was sent to jail. The case has been referred to this Court by the learned Sessions Judge with the recommendation that the order be set aside. Further comment is unnecessary. The Magistrate has acted quite illegally. There was no case under Act XIII of 1859 before the Magistrate. That Act can only be put in motion by the employer. I set aside the order of the Magistrate and direct that the complaint of Muhammad Ali be heard de novo by some other Magistrate to whom the District Magistrate may think fit to transfer it and not by the Magistrate whose order has just been set aside.

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