

Emperor Vs. Chandan and anr.

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SooperKanoon Citation : sooperkanoon.com/450896

Court : Allahabad

Decided On : Feb-09-1921

Reported in : (1921)ILR43All483

Judge : Walsh and ;Ryves, JJ.

Appellant : Emperor

Respondent : Chandan and anr.

Judgement :

Walsh and Ryves, JJ.

1. This is an application in revision under the following circumstances: The complainant charged four persons with having assaulted him, causing grievous hurt. The offence charged against them all was, therefore, described as punishable under Section 325 of the Indian Penal Code. One of the four absconded, but the other three appeared to stand their trial. The medical evidence showed that 'grievous hurt' had not been caused, and in consequence the charge was altered to one of simple hurt, under Section 323 of the Indian Penal Code. The complainant then petitioned the court to acquit one of the accused, who was a minor, on the ground that he had compounded the offence against him personally, but desired the court to proceed against the other accused persons. The court, thereupon, acquitted the minor. The other accused then petitioned the court claiming that the compounding of the offence against one of the original accused

persons amounted in law to the compounding of the offence against them all, and they relied on two decisions, Chandra Kumar Das v. Emperor (1902) 7 C.W.N. 176 and Sham Behari Singh v. Sagar Singh 1 Pat. L.T. 32. The Magistrate rejected their petition relying on Muthia Naick v. The King-Emperor (1917) I.L.R. 41 Mad. 323. From that order an application was filed before the Sessions Judge who rejected it. Hence this application to this Court.

2. As there was no decision of this Court on the point and as three High Courts had taken a different view of the question, it was referred to a Bench of two Judges.

3. It seems to us that the view taken by the Madras High Court is right. What the complainant came into court with was an accusation against four persons, each of whom, he said, had assaulted him. He filed one complaint against all four because all four together at the same time assaulted him and under the law all four could be tried together, as was obviously most convenient. There had been in reality, if his allegations were true, four assaults, or offences punishable under Section 323 of the Indian Penal Code, committed more or less simultaneously. In one sense it was a joint offence, but it was also a separate offence on the part of each assailant. It seems to us, therefore, that the compounding of the offence against one of them could not affect the case against any of the others. We, therefore, think that the order of the court below was right and direct that the papers be returned.