

Muhammad Alam Vs. Emperor

Muhammad Alam Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/452710

Court : Allahabad

Decided On : Jul-15-1910

Reported in : 7Ind.Cas.389

Judge : Chamier, J.

Appellant : Muhammad Alam

Respondent : Emperor

Judgement :

Chamier, J.

1. This is a reference by. the Sessions Judge of Farrukhabad, in which he recommends that an order of the Joint Magistrate of Farrukhabad ordering one Muhammad Alam to pay a fine of Rs. 50 under Section 2 of Bengal Regulation VI of 1825, be set aside The case was taken up at the instance of the Sub-Divisional Officer on whose report the District Magistrate directed that Muhammad Alam should be prosecuted under the section of the Regulation mentioned above The case was made over to the Joint Magistrate by the District Magistrate, who was also, of course, the Collector of, the District. According to Section 2 of the, Regulation, it is only the Collector or other officer acting in that capacity that can impose a fine under that section. Section 4 provides, for the levying of fine by the Collector as if it were arrears of public revenue, and Section 5 of the Regulation gives a right of appeal to the Board of Revenue It seems to be quite clear that

proceedings cannot be taken under the Regulation by a Magistrate as such. The Joint Magistrate was not a Collector or other officer acting in that capacity within the meaning of the Regulation, and, therefore, had no jurisdiction under that section. But as he dealt with the case as a Magistrate, the Sessions Judge was entitled to deal with the case under Section 435 of the Code of Criminal Procedure, and this Court has power to set aside the order of the Joint Magistrate. The order of the Joint Magistrate is, therefore, set aside as having been passed without jurisdiction. The fine if realized, will be refunded.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com