

Emperor Vs. Lal Singh

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Court : Allahabad

Decided On : Nov-29-1911

Reported in : (1912)ILR34All244

Judge : H.G. Richards, C.J.

Appellant : Emperor

Respondent : Lal Singh

Judgement :

H.G. Richards, C.J.

1. This is an application to set aside the orders of two Magistrates of the first class, granting sanction to prosecute under Sections 193 and 211 of the Indian Penal Code. The application for sanction was not made before the same Magistrate as had originally tried the case, but it was made to his successor, who granted sanction. There was an appeal to the District Magistrate, who apparently directed that the appeal should be heard by another Magistrate of the first class subordinate to him. The learned District Magistrate was evidently exercising what he considered to be the power vested in him under Section 407. In my opinion this Section does not entitle the District Magistrate to send appeals under Section 195 of the Criminal Procedure Code to a Magistrate of the first class subordinate to him. The Section deals with appeals from convictions. This view of the Section was taken in the case of *Sadhu Lall v. Ram Churn Pasi* (1903) I.L.R. 30 Calc. 394.

I therefore allow the application, set aside the order of Mr. Kasim Beg Chagtai, and send back the case to the District Magistrate with directions that he should hear the appeal himself. I expressly abstain from stating any view upon the merits.

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