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Emperor Vs. Pancham

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SooperKanoon Citation : sooperkanoon.com/454714

Court : Allahabad

Decided On : Mar-22-1923

Reported in : (1923)ILR45All474

Judge : Walsh, J.

Appellant : Emperor

Respondent : Pancham

Judgement :

Walsh, J.

1. In my view the learned Sessions Judge has taken too technical a view of this matter which, if it is sound, is likely to defeat the ends aimed at by the section. He would have done better to examine the section rather than the cases. He has fallen into a trap in adopting the phraseology that the Magistrate should have 'called upon the complainant to show cause.' The section does not require anything of the kind, and if anybody has said that he ought to go through any special formality of that kind, I beg respectfully to differ. In these Provinces there is too much 'calling upon to show cause' about every trivial question. The section enables the Magistrate to compensate in the case of a frivolous or vexatious accusation, 'by the order of discharge'. It only requires any objection which is urged to be recorded and considered. It is clear that this section was not intended to multiply the proceedings but to be applied in a summary manner. If the

complainant has no real objection to urge, there is nothing to record, as the Joint Magistrate justly remarks. Multiplication of proceedings only adds unnecessarily to the burden upon the parties, and in a small matter of this kind where the compensation is Rs. 20 each, it would be obviously a remedy worse than the disease to issue formal notice. A party, moreover, who has the right to make a formal objection and have it recorded can waive that right by his acquiescence. As the District Magistrate says, unless the complainant in this case was dumb or imbecile, there was nothing to prevent his objecting. I am not concerned to consider the decisions in other provinces in a small matter of this sort. The authority quoted by the learned Sessions Judge from the Allahabad Law Journal is inapplicable because the order which was held to be bad was made in the absence of and behind the back of the party against whom it was made. The order for compensation must stand. Let the record be returned to the lower court.

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