

Queen-empress Vs. Ishri

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1898)ILR20All1

Judge : Knox, ;Burkitt and ;Aikman, JJ.

Appellant : Queen-empress

Respondent : ishri

Judgement :

Knox, Burkitt and Aikman, JJ.

1. This case was called for on a perusal of the Sessions statement of the Bareilly District for the month of October 1896. The Sessions Judge had convicted an accused person of separate offences falling under Sections 420, 467 and 471 of the Indian Penal Code. For each offence he sentenced the accused to suffer rigorous imprisonment for three months and directed that the sentences should run concurrently. The passing of concurrent sentences is nowhere authorised by the Code of Criminal Procedure. Section 35 of that Code provides that when a person is convicted at one trial of two or more distinct offences, the Court may sentence him for such offences to separate terms of imprisonment, but provides that the separate terms of imprisonment shall commence one after the expiration of the other in such order as the Court may direct. These words show that the passing of concurrent sentences was not in the contemplation of the Legislature

for cases in which convictions take place at one trial. Section 397 of the Code provides that in case of a person already undergoing a sentence of imprisonment and such person being sentenced to another term of imprisonment, such latter imprisonment shall commence at the expiration of the imprisonment to which he has been previously sentenced. We cannot but regret that a power to pass concurrent sentences has not been conferred by the Code. Numerous cases occur to us in which such a power would be very salutary. As the law at present stands, we must hold that the concurrent sentences passed are illegal. We accordingly set aside the sentences passed in this case, and direct that for each offence the accused suffer rigorous imprisonment for a term of one month. These terms of imprisonment will run consecutively from the date of the original conviction. Let the papers be returned.

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