

Empress of India Vs. Sukhari

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1880)ILR2All407

Judge : Oldfield, J.

Appellant : Empress of India

Respondent : Sukhari

Judgement :

Oldfield, J.

1. I am of opinion that the conviction is illegal with reference to the provisions of Sections 473 and 471 of the Criminal Procedure Code.

2. By the former section no Court shall try any person for an offence committed in contempt of its own authority, and an offence under Section 174 of the Indian Penal Code is such an offence, and the procedure prescribed in Section 471 shows that it was not intended that an officer should try such an offence in his capacity as Magistrate when committed before him in his capacity as a settlement officer. It is enacted that the Court may, after making such preliminary inquiry as may be necessary, either commit the case itself or send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

3. When the officer presiding over the Court exercises revenue as well as Magistrate's jurisdiction, it will not be a proper compliance with these provisions for the officer presiding to make the case over to himself as Magistrate; that will not be sending the case to any Magistrate within the meaning of the section. The obvious intention of the law is that the officer before whom the offence was committed shall not charge and try the accused person on his own charge.

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