

Dawar Singh Vs. Emperor

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Court : Allahabad

Decided On : Jul-30-1937

Reported in : AIR1937All755

Appellant : Dawar Singh

Respondent : Emperor

Judgement :

ORDER

Yorke, J.

1. This is an application in revision of one Dawar Singh who was convicted by a Magistrate of an offence under Section 182 read with Section 109, I.P.C. and sentenced to pay a fine of Rs. 25 with one month's rigorous imprisonment in default. His application in revision to the Sessions Judge of Ghazipur was dismissed. This was a case arising out of some dealings in regard to a camel. It is said that one Gauri Shankar gave a camel to the applicant Dawar Singh in settlement of a debt and that Dawar Singh sold the camel to Raghunath. It has been found as a fact that at the instigation of Dawar Singh, who first suggested this to someone else and when that person refused, suggested it to Gauri Shankar, Gauri Shankar made a report at the police station that his camel had disappeared. The Courts below have concluded that the object of making this false report was to cause the police to take action and thereby to cause trouble to

Raghunath. This report was made on 2nd September 1936 and on 26th September the Sub-Inspector reported the matter to the Superintendent of Police asking for the prosecution of Gauri Shankar under Section 182 and Dawar Singh under Sections 182/109. On 2nd October the Superintendent of Police passed a formal order sanctioning the prosecution of both persons under Section 182, I.P.C., describing Dawar Singh, applicant, as Gauri Shankar's abettor. On the case coming before the lower Court and again in the Court of the Sessions Judge, reliance was placed for the applicant on the ruling of Karamat Husain, J. reported in Umaro Singh v. Emperor (1909) 6 A.L.J. 236, this ruling being relied upon as an authority for the proposition, as I understand it, that a man cannot be prosecuted for abetment of an offence under Section 182, I.P.C. The learned Sessions Judge referred to an Oudh ruling, Ramjaiwan v. Emperor A.I.R. 1926 Oudh 448. But it is obvious that the Courts below were not entitled to rely upon this ruling if the ruling reported in Umaro Singh v. Emperor (1909) 6 A.L.J. 236 is really an authority for the above proposition.

2. But on an examination of this ruling it seems to me that it is not an authority for that proposition at all. As I understand, it simply lays down that a man who is not the actual maker of the false report cannot be convicted under Section 182 standing by itself, as indeed must, I think, obviously be the case. The question whether a man can be convicted under Section 182/109 is a different one and I am not able for myself to see any reason why Section 107 and therefore Section 109 should not be applicable to cases under Section 182. On this view of the case I am of opinion that the applicant was rightly convicted. There is no force in this application which is dismissed accordingly.