

Emperor Vs. Khushali Ram

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Court : Allahabad

Decided On : Nov-19-1917

Reported in : AIR1918All129; (1918)ILR40All116; 43Ind.Cas.436

Judge : George Knox, J.

Appellant : Emperor

Respondent : Khushali Ram

Judgement :

Knox, J

1. I have read the order of the Sessions Judge of Agra, dated the 15th of October, 1917. That order sets out that the Munsif of Fatehabad in the Agra district was of opinion that there was ground for inquiring into offences supposed to have been committed under Sections 467, 471, 193, 209 and 210 of the India penal Code. The offence under Section 467 was alleged to have been committed at Sirajganj in Bengal and the same remark applies to the other offences. The accused was committed for trial to the Court of Session at Agra, the court to which the Munsif of Fatehabad could commit the accused person. The accused pleaded that the court of the Sessions Judge of Agra had no jurisdiction to try the case. The latter Court acting under the provisions of Section 185 of the Criminal Procedure Code has asked this Court to decide whether the offence shall be tried by that court or by some court having jurisdiction in the province of Bengal. The learned Counsel who

appears for Khushali Ram in this Court contends that the offence was committed within the province of Bengal and, as it is an offence referred to in Section 195 of the Code of Criminal Procedure, it cannot be inquired into except with the previous sanction or on the complaint of the court before which the offence was committed in Bengal or of some other court to which such court is subordinate. I am unable to accede to this contention. Section 476 of the Code of Criminal, Procedure contemplates not merely offences committed before the Munsif of Fatehabad but also offences brought under the notice of the Munsif in the course of a judicial proceeding. This was a judicial proceeding before the court of the Munsif of Fatehabad and the offences were brought to the notice of the Munsif in the course of that proceeding, Ordinarily, the Munsif would have under Section 476 to send the case under such circumstances for inquiry or trial to the nearest Magistrate of the first class. He certainly would have no jurisdiction to send the case for inquiry or trial to any court within the province of Bengal, and, under Section 478, he had jurisdiction to commit the accused to take his trial before the Court of Session, obviously the court of the Sessions Judge of Agra.

2. The words 'referred to in Section 195' which have found a place in Section 476 of the Code of Criminal Procedure are merely words descriptive of the class of offences with which the Munsif can deal. They do not mean that Section 195 governs Section. 476 to any extent other than that just mentioned.

3. Let the record be returned to the Sessions Judge of A(sic) who will proceed to deal with the case according to law.