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Emperor Vs. Man Singh and ors.

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Court : Allahabad

Decided On : Sep-17-1913

Reported in : (1913)ILR35All570

Judge : George Knox and ;Ryves, JJ.

Appellant : Emperor

Respondent : Man Singh and ors.

Judgement :

Knox and Ryves, JJ.

1. On this appeal being called on for hearing Mr. Girdhari Lal Agarwala, who appeared for the appellant called our attention to the fact that out of the two assessors who sat with the learned Judge, one assessor, namely, Thakur Dirgbijoy Singh, had not been summoned as an assessor for the purposes of this trial. We ordered an inquiry to be made, and we find that Thakur Dirgbijoy Singh was up till 1910 on the list of assessors, but since that date he had been removed from the list. As a reason for his removal, the learned Sessions Judge gives that the Magistrate recommended this on the ground that he was a large zamindar and his position in life and status were much better than those of persons of the class from which assessors are ordinarily selected. If this be the case, we are surprised to find that this recommendation should have been made and should have met with approval. It is surely not too much to ask from Indian gentlemen of position

and rank that they should assist in the administration of justice, as the sitting as an assessor can, if the list be property prepared, occur very rarely, and probably only once in the course of three or four years. However this may be, there is no doubt that the trial of these accused persons, when one of the assessors only was an assessor summoned for the particular session is illegal, as has been pointed out in Queen-Empress v. Badri Weekly Notes, 1804, p. 207. In such a case there has been no lawful trial before a lawfully constituted tribunal, We set aside the trial, conviction and sentences and direct that the accused be retried by the court of session according to law.

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