

Chedi Vs. Ram Lal

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Court : Allahabad

Decided On : Aug-11-1923

Reported in : AIR1924All224; (1924)ILR46All80; 81Ind.Cas.615a

Judge : Sulaiman, J.

Appellant : Chedi

Respondent : Ram Lal

Judgement :

Sulaiman, J.

1. This is a reference by the Additional Sessions Judge at Mirzapur. It appears that there were two trials before a Magistrate of the third class. Ram Lal was convicted under Section 447 of the Indian Penal Code in one and three, other accused persons were convicted under Section 352 of the Indian Penal Code in the other. Both these accused persons preferred an appeal to the District Magistrate, who allowed their appeals, set aside the convictions and released the accused. In addition to this, he called upon the complainant to show cause why he should not be ordered to pay compensation under Section 250 of the Indian Penal Code. Eventually he ordered the complainant to pay Rs. 20 as compensation to Ram Lal and Rs. 10 each to the other three accused.

2. The learned Additional Sessions Judge has referred these cases to this Court with a recommendation that the order awarding compensation should be set aside as being without jurisdiction.

3. In my opinion this reference must be accepted. The wording of the section is very clear. It is only the trying Magistrate who, if he discharges accused persons, can order compensation to be paid. The appellate court has no jurisdiction to proceed under Section 250. This was the view taken by STANLEY, C.J., in the case of Balli Pande v. Chittan (1906) I.L.R. 28 All, 625. That case has been followed by the Full Bench of the Calcutta High Court in the case of Mehi Singh v. Mangal Khandu (1911) I.L.R. 39 Calc. 157. In my opinion, therefore, the order passed by the District, Magistrate directing compensation to be paid was ultra vires. I accept this reference and set aside that part of the District Magistrate's order which directed that the complainant should pay compensation to the various persons. The compensation, if paid, will be refunded.

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