

Badri Vs. Emperor

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Court : Allahabad

Decided On : Jul-31-1919

Reported in : AIR1919All323; 52Ind.Cas.666

Judge : Stuart, J.

Appellant : Badri

Respondent : Emperor

Judgement :

Stuart, J.

1. The four applicants, Badri, Jageshar, Raja Ram Pathak and Ramesbar, filed about the Name time four separate suits in the Court of the Village Munsif of Khajuri and obtained decrees therein. In execution of one of these decrees Jagat was imprisoned for 42 days. The learned District Judge of Gorakhpore under the provisions of Section 73, Local Act III of 1892, set aside all these decrees, on the finding amongst other findings that the Village Munsif had no jurisdiction to decide the suits. He further found that the suits were deliberately false and that they had been instituted in pursuance of a conspiracy to prosecute Jagat, because Jagat had exposed a scandal in Jageshar's family the disclosure of which had put Jageshar to considerable expense and damaged the reputation of himself and his relations. The learned District Judge, after having arrived at this conclusion and setting aside the decrees, proceeded to take action under Section 476 of the Code

of Criminal Procedure, and has ordered the four applicants to be prosecuted criminally on various charges. One of the charges under which he has ordered each applicant to be prosecuted is a charge Section 209. The applicants apply in revision to have this order set aside. The applications are under the provisions of Section 115 of the Code of Civil Procedure. Now there is nothing to show that the learned District Judge exercised a jurisdiction not vested in him by law, or failed to exercise a jurisdiction so vested or that he acted in the exercise of his jurisdiction illegally or with material irregularity; and here I might leave the matter and dismiss the applications. But inasmuch as other Judges of this Court have thought fit to admit these applications and as the proceedings have already dragged on for some 14 months, it will perhaps be better to examine the arguments put forward by the learned Counsel for the applicants. The learned Counsel argues that inasmuch as the Munsif had no jurisdiction, his clients can in no circumstances have committed an offence under either Sections 209 or 210. The words of Section 209 are: 'Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of justice any claim which he knows to be false, shall be punished with imprisonment.' and Section 210 is to the effect that-- 'whoever fraudulently obtains a decree or order against any person for a sum not due, or fraudulently causes a decree or order to be executed against any person for anything is liable for imprisonment.'

2. Now on the learned Judge's finding, which is the only finding with which I am concerned, these four persons fraudulently, dishonestly and with intent to injure Badri, misrepresenting their residence, went to a Court which they knew had no jurisdiction and obtained by the use of the most dishonest methods decrees for sums not due to them, and in one instance obtained the imprisonment of Jagat for six weeks. It would have been an extraordinary defect in the Indian Penal Code if such acts could pass unpunished, because the Court had no jurisdiction, but I see no reason to suppose that the law contains this defeat. The words in Section 209 are 'a Court of justice' not 'a Court of justice having jurisdiction in the case.' If a person brings a claim in a Court of justice which has no jurisdiction the case falls under Section 209 in my opinion, and similarly, if he obtains a decree fraudulently for a sum not due, the case will fall under Section 210, whether the Court had, or had not, power to pass the decree. In these circumstances there would be no

force in the argument that there is a legal flaw in the charge even if the argument could be pressed under Section 115.

3. I dismiss these applications with costs. I fix the fees of the Government Advocate at Its. 32 on each application.

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