

Lal Behari Vs. Emperor

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Court : Allahabad

Decided On : Mar-29-1916

Reported in : AIR1916All1897(1); 35Ind.Cas.485

Judge : Piggott, J.

Appellant : Lal Behari

Respondent : Emperor

Judgement :

Piggott, J.

1. A very similar case to this was recently before this Court, vide Sartvan v. Emperor 33 Ind. Cas. 647 : 14 A.L.J. 279 : 17 Cr. L.J. 67. The question, of course, is how far the procedure of a Court of Criminal Appeal dismissing an appeal summarily can be held to be reasonably applicable to appeals under Chapter VIII of the Code of Criminal Procedure. I take it to be settled law that a Court of Criminal Appeal dismissing an appeal summarily is not bound to write a judgment. This Court has, however, always maintained a right to interfere, in the exercise of its discretion, where there was reason to suppose that the appeal had not received fair and adequate consideration. An appeal from an order requiring a person to furnish security to be of good behaviour is certainly distinguishable from an appeal against a conviction in respect of an offence specifically charged, where the only matter for consideration may be the credibility or otherwise of certain direct and

positive evidence. I think that in a case like the present it is not unreasonable for this Court to insist that the District Magistrate should not dispose of an appeal of this nature otherwise than by a judgment showing on the face of it that he has applied his mind to a consideration of the evidence on the record and of the pleas raised by the appellant, both in the Court below and in his memorandum of appeal. At any rate I am not prepared to dissent from the view taken by a learned Judge of this Court in the case already referred to. I set aside the order of the District Magistrate dismissing the appeal of Lal Behari in this case, and I direct that the said appeal be re-heard and tried according to law. I further transfer the hearing of this appeal from the Court of the District Magistrate of Basti to that of the District Magistrate of Gorakhpur.

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