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Ram Rakshpal Vs. Ram Nath

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Court : Allahabad

Decided On : Nov-23-1937

Reported in : AIR1938All112; 173Ind.Cas.385

Appellant : Ram Rakshpal

Respondent : Ram Nath

Judgement :
ORDER

Allsop, J.

1. This is a reference by the learned Sessions Judge of Moradabad recommending that an order for costs passed under Section 344, Criminal P.C., should be set aside. The learned Judge relies upon the decision in Salek Chand v. Emperor : AIR1936 All851 That case however can dearly be distinguished. It laid down merely that a conditional order for an adjournment under Section 526 was not justifiable as a Magistrate was bound to adjourn under Sub-section 8 of that section.

2. In the case under reference the learned Magistrate took care not to pass a conditional order. It has always been held that Section 344, Criminal P.C., does justify an order for costs. It was enacted in the year 1932 that nothing contained in Sub-section 8 or Sub-section 9 of Section 526 should restrict the powers of a Court under Section 344; therefore nothing in those sub-sections can restrict the

power of a Court to pass an order for costs under Section 344. A Court cannot of course pass a conditional order of adjournment because it has to pass such an order, but it may, when passing its order for adjournment, direct that the party whose application has necessitated adjournment shall pay costs of the opposite party. I see no reason to interfere and I therefore reject the reference. The record may be returned to the Court below.

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