

Emperor Vs. Patrakhan

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SooperKanoon Citation : sooperkanoon.com/466582

Court : Allahabad

Decided On : Sep-03-1931

Reported in : AIR1932All124

Appellant : Emperor

Respondent : Patrakhan

Judgement :

Sulaiman, J.

1. It is difficult to characterize this matter although it has been treated as a criminal reference by the District Magistrate. The Sessions Judge in a Sessions trial convicted the accused under Section 302, I.P.C., but for reasons given in the concluding portion of the judgment he inflicted the lesser sentence of transportation for life.

2. The Local Government Pleader appears to have addressed a letter to the local District Magistrate giving reasons why the sentence of death should have been passed. On this, the District Magistrate sent a letter to the Registrar of the High Court enclosing the Government Pleader's letter and recommending that the death penalty instead of transportation for life should be imposed on the accused. The Registrar very properly returned his letter and the record to the District Magistrate and declined to entertain it when it was sent direct. He however suggested that the record may be resubmitted through the Sessions Judge as laid down in Ch. 10,

Rule 6, 'of the General Rules (Criminal). We may add that this rule refers to cases which can be properly referred by District Magistrates. The District Magistrate then submitted the two letters to the Sessions Judge for being forwarded to the High Court, and the. Sessions Judge has forwarded them with his own remarks. He has taken serious objection to two expressions used by the District Magistrate in his original letter addressed to the Registrar, as well as to its general tone.

3. A learned Judge of this Court ordered notice to issue to the accused to show cause why the sentence should not be enhanced and remarked that the complaint of the Sessions Judge would be considered at the hearing.

4. No doubt, as the record has come to the High Court, though in a most irregular manner, we have jurisdiction to intervene in revision and consider the propriety of the sentence, but we are not bound to do so.

5. It has been pointed out by this Court times out of number that a District Magistrate is inferior as a Court to the Sessions Judge. It is no business of a District Magistrate on the judicial side to criticize the propriety of the view taken by the superior Court, namely the Sessions Court. It is his imperative duty to abide by the conclusion of that Court loyally and faithfully. If however he considers that there is room for consideration, he may on the administrative side approach the Local Government or the Government Advocate with the request that the High Court should be moved by means of a revision to consider the propriety of the sentence. The District Magistrate cannot be allowed to sit in judgment over the Sessions Judge, and criticize the views of the Sessions Judge and bring his own views to the notice of the High-Court.

6. This case is still worse because even the criticisms of the Government Pleader on the judgment of the Sessions Judge have been attempted to be placed before the High Court.

7. The only section under which a Court is competent to 'call for or examine the records of a criminal case is Section 435, Criminal P.C. But that section applies exclusively to the proceedings before an inferior criminal Court and not those before a superior Court. The District Magistrate has therefore acted with

impropriety in examining the record of the case decided by the superior Court, and making a reference to the High Court.

8. As remarked above we have jurisdiction to consider the matter on its merits as the record has come before us somehow. But it would be encouraging District Magistrates to adopt a course not authorized by law if, after condemning the action, we were to entertain the reference. We think that the best way of marking our disapproval of the way in which the matter has been forwarded to the High Court is to decline to consider the matter on its merits.

9. We must also point out that the Sessions Judge has very properly taken objection to at least two expressions in the letter of the District Magistrate. He remarked. 'The Sessions Judge in his judgment talks about extenuating circumstances.' The word 'talks' is a colloquial word most unbecoming for a District Magistrate to use in reference to a judgment passed by a Court of law superior to him. We are astonished that he should have used such a word. Similarly, the reasons which were given by the Sessions Judge might be good, bad or indifferent, but we think that it was improper on the part of the District Magistrate to call them quite inscrutable.' It is the duty of the subordinate Courts to show respect and be courteous to superior Courts. We trust that our remarks will be borne in mind by the District Magistrate in future. Let the record be returned.