

Jagannath Vs. Emperor

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Court : Allahabad

Decided On : Jan-17-1927

Reported in : AIR1927All754a

Appellant : Jagannath

Respondent : Emperor

Judgement :

Dalal, J.

1. The applicant Jagannath was discharged of an offence under Section 60, Excise Act, of being in possession of cocaine by the trial Court of a Magistrate. The District Magistrate took the case up in revision and disagreeing with the estimate of the evidence made by the first Court has directed further enquiry to be made in the applicant's case. Such a reason for a fresh enquiry under Section 435 is not sufficient. This has been held in a large number of rulings of this Court since 1910. In 1910 in the case of Chandan v. Kallu [1911] 8 A. L. J. 45, a learned Judge of this Court laid down that where the nature of the case is such that Courts are liable to take different views of the evidence and of the probabilities, the case is not one which calls for any further enquiry. That opinion was based on the Full Bench ruling of Queen Empress v. Chotu [1886] 9 All. 52. There are recent single Judge rulings to the same effect of 1920 and 1922, Bindesri Dube v. Emperor [1920] 18 A. L. J. 1135, and Emperor v. Udai Raj Singh A.I.R. 1922 All. 429. As

pointed out by Mr. Justice Griffin in Kallu's case that the judgment of the trial Court may be open to certain criticisms, so this Court should see this whether the judgment on the whole is fair and sensible or not. The judgment of the trial Court gives valid reasons for the discharge and in no way can be said to be perverse. The District Magistrate does not suggest that any more evidence is available. All that the District Magistrate has said is that the view of facts taken by the trial Court was questionable. He has not detailed the particular point on which the judgment is open to question. The trial Court had excellent reasons to suspect that the cocaine was planted where it was found, and having such suspicion, the only course open to it was to discharge the applicant. No further enquiry was, therefore, called for and the order of the District Magistrate of 6th September is hereby set aside.

2. The bail bond shall be cancelled.

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