

Rup Lal Vs. Emperor

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Court : Allahabad

Decided On : Oct-29-1915

Reported in : AIR1915All481; 31Ind.Cas.817

Judge : Henry Richards, C.J.

Appellant : Rup Lal

Respondent : Emperor

Judgement :

Henry Richards, C.J.

1. This is an application in revision against the order of the District Magistrate. It appears that there was a suit in the Small Cause Court in 1912 in which Rup Lal was plaintiff. The suit was a suit on a bond. It is alleged that the bond was a forgery. Application was made by the then District Magistrate to the Judge of the Small Cause Court for sanction to prosecute. This sanction was granted and the case was taken cognizance of by the District Magistrate, who sent it on to a Magistrate of the first class. The result of his enquiry was that the accused Rup Lal was discharged. The prosecution considered it desirable that there should be further enquiry and that the propriety of the order of the Magistrate discharging Rup Lal should be considered. The application was made to the District Magistrate. He directed Rup Lal to show cause why the order discharging him should not be set aside. Counsel appeared on behalf of Rup Lal. No exception

was taken to the District Magistrate hearing the case and he ordered that the order of discharge should be set aside. In the present application, it is urged that the District Magistrate has all along been the complainant and that the present District Magistrate is the complainant notwithstanding that the original complainant was his predecessor-in-office, and that a District Magistrate who is a complainant ought not to make any order in the case. It is further contended that the order of the Magistrate, who discharged Rup Lal, is correct and ought not to be interfered with.

2. In my opinion, if the order discharging Rup Lal was wrong, there is no reason why it should not be set aside. But I do not desire to express any opinion on the correctness or incorrectness of the order of discharge. While I think it is to be regretted that the attention of the learned District Magistrate was not called to the fact that he was the nominal complainant, it is nevertheless clear that a Magistrate ought not to make an order in any case in which he is even the nominal complainant. I think that the order should be set aside and it will be for the Crown to consider whether it is expedient to move further in the matter. If it is considered expedient to move, an application can be made to the Sessions Judge who has jurisdiction in the matter. I accordingly set aside the order of the District Magistrate dated the 5th of August 1915.