

Mohan Lal Vs. Emperor

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Court : Allahabad

Decided On : Jun-23-1921

Reported in : AIR1921All205; 64Ind.Cas.142

Judge : Lindsay, J.

Appellant : Mohan Lal

Respondent : Emperor

Judgement :

Lindsay, J.

1. This is an application directed against an order by which the applicant Mohan Lal has been ordered to be tried for an offence committed Under Section 82 of the Registration Act.

2. The order has been attacked on two grounds. In the first place, it has been said that a previous order of acquittal passed by the learned Sessions Judge of Farrukhabad sitting in appeal is a bar to the prosecution of the offence with which the applicant is now charged. It seems that Mohan Lal appeared at a registration office and presented a deed purporting to be executed by himself and Makhan Lal, With Mohan Lal at the time was a person who gave himself out to be Makhan Lal but who has been found to be another person named Nand Ram, Certain witnesses too were present at these proceedings, who identified this person Nand

Ram as being Makhan Lal.

3. When these facts came to light, a case was instituted against Mohan Lal and these other persons and they were convicted by a Magistrate Under Section 419 of the Indian Penal Code. Mr. Forbes, Sessions Judge, reverted the order of the Magistrate on appeal and acquitted the accused, including Mohan Lal. He has now, however, by what purports to be an order Under Section 83 of the Registration Act, directed prosecution of Mohan Lal for the offence of personation described in Section 82 of the Registration Act.

4. It is clear enough to me that the previous order of acquittal passed by the learned Sessions Judge is no bar to Mohan Lal being tried for an offence Under Section 82 of the Registration Act, The previous order of acquittal in order to bar the present trial, must be the order of a competent Court, and it is admitted on all hands that at the time the previous criminal case was pending, no sanction had been given by the District Registrar, or by any other officer empowered in that behalf in Section 83 of the Registration Act for the prosecution of Mohan Lal.

5. It has been held by this Court in the case of Hussain Khan v. Emperor 36 Ind. Cas. 145 : 14 A.L.J. 412 : 38 A. 354 : 17 Cr. L.J 465 that no prosecution for any offence specified in Section 82 of the Registration Act can be commenced without the sanction of one or other of the officers referred to in Section 83.

6. It follows from this that the Magistrate who tried the earlier case was not competent to deal with any offence Under Section 82 of the Registration Act, nor was the Judge who tried the appeal against the Magistrate's decision. I hold then that the order of acquittal passed by Mr. Forbes on 16th May 1921 was no bar to a second trial.

7. The second point which is raised is one of much difficulty. The proceedings taken for the institution of this charge are described in the lower Court as being proceedings in the Court of the Sessions Judge of Farrukhabad. That is the way in which the paper was headed. On the other hand the order for prosecution is described as being an order made Under Section 83 of the Registration Act, I further notice that Mr. Forbes has signed this order not as a Sessions Judge.

There is only his bare signature at the bottom of the order, After the order was passed, I find that Mr. Forbes directed a copy of his order to be sent to the District Magistrate with a request that it should be treated as a complaint, and that order is signed distinctly by Mr. Forbes as District Registrar. It bears the date 16th May 1921. In these circumstances there can be no question that the order of Mr. Forbes is perfectly correct and is valid authority for the commencement of proceedings against Mohan Lal. The application for revision fails. The stay order is withdrawn.

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