

Salek Chand Vs. Emperor

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Court : Allahabad

Decided On : Aug-24-1936

Reported in : AIR1936All851; 166Ind.Cas.198

Appellant : Salek Chand

Respondent : Emperor

Judgement :

ORDER

Allsop, J.

1. Salek Chand was an accused person in a criminal Court. He asked for an adjournment in order to enable him to apply to the High Court for transfer. The Magistrate adjourned the case on condition that a sum of Rs. 20 was paid by way of costs. Under Section 344, Criminal P.C., a Magistrate may adjourn a case on such terms as he thinks fit but this particular adjournment was one which was covered by the provisions of Section 526, Sub-section (8), Criminal P.C., and the Court had to grant it. It is true that the explanation to Sub-section (9) says that nothing contained in Sub-section (8) or Sub-section (9) restricts the powers of a Court under Section 344, but at the same time it is difficult to see how a Court can impose terms for granting an adjournment when it is bound to grant that adjournment whether the terms are accepted or not. It has been held in *Sorabji M. Shrofi v. Erachshaw B. Katrak* 1932 56 Bom 536 that costs should not be imposed

in a case of this kind. The learned Sessions Judge has made a reference that the order for costs should be set aside. I accept the reference and direct that orders shall issue accordingly.

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