

Chandan and anr. Vs. Kallu

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Court : Allahabad

Decided On : Dec-10-1910

Reported in : 9Ind.Cas.274

Judge : Griffin, J.

Appellant : Chandan and anr.

Respondent : Kallu

Judgement :

Griffin, J.

1. This is an application for revision of the order of the learned Additional Sessions Judge of Meerut, directing further enquiry into the case of Chandan who was discharged by an order of the Magistrate, dated the 23rd June 1910. Chandan brought a suit on a bond against Kallu, the complainant in this case. The suit was decreed by the Munsif. On appeal the District-Judge reversed the Munsif's decision and dismissed the suit. Meanwhile Kallu had filed a complaint against Chandan, charging him under Section 417, Indian Penal Code, with having dishonestly induced him to affix his thumb mark to a paper which he was told was a notice in connection with a mutation case but which proved to be the bond on which Chandan sued. That complaint was dismissed under Section 208 of the Code of Criminal Procedure by a Magistrate of the first class. Kallu applied to the Additional Sessions Judge in revision who, under the provisions of Section 437 of

the Code of Criminal Procedure, directed a further enquiry. That further enquiry has resulted in the discharge of the accused Chandan, by the order of the 28rd June, 1910. Against that order Kallu again applied to the Additional Sessions Judge, asking that a further enquiry be again directed. The learned Additional Sessions Judge has granted the application and has directed a further enquiry. The main ground on which this application for revision of that order is based by the learned Counsel on behalf of the applicant is that where, as has been shown above, there has been divergence of opinion between different Courts which have had to deal with the case, either on the Civil or on the Criminal side, the Court below was not justified in directing a further enquiry into the case. Reference is made to the Full Bench ruling of Queen-Empress v. Chotu 9 A. 52 in which the principles for the guidance of Courts in proceedings under Section 437, Criminal Procedure Code, are laid down. I have read the judgment of 23rd June, 1910. Though, no doubt, it is open to the criticisms passed on it by the learned Additional Sessions Judge, I cannot say that it was not on the whole a fair and sensible judgment. The nature of the case is such that Courts are liable to take different views of the evidence and of the probabilities of the case. The Munsif has found absolutely in favour of the applicants. Two Magistrates before whom the case came on the complaint of Kallu have discharged the accused. I think under these circumstances the case is not one which calls for any further enquiry. I allow this application and set aside the order of the learned Additional Sessions Judge directing further enquiry into the case of the applicants Chandan and Ram Chandra.