

Satola and ors. Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/475106

Court : Allahabad

Decided On : Jan-19-1917

Reported in : AIR1918All267; 44Ind.Cas.592

Judge : Tudball, J.

Appellant : Satola and ors.

Respondent : Emperor

Judgement :

Tudball, J.

1. This case has been referred to this Court by the District Magistrate of Jhansi. The facts are simple on the evidence and as found by the Magistrate. The accused persons are certain Municipal servants who illegally and without justification seized and impounded cattle belonging to the complainant. A complaint was made before a Joint Magistrate under Section 22 of the Cattle Trespass Act, and it was transferred by him to the Court of the Third Class Magistrate for decision. The Magistrate found the accused guilty and directed them to pay Rs. 10 as compensation to the complainant under Section 22 of the Act. The District Magistrate admits in his order of reference that the case is trivial, but is of opinion that the lower Courts order was illegal and irregular, because the accused persons were servants of the Municipality and quite within their rights in impounding cattle damaging Municipal trees, and that the Court ought to have

acted under Section 326 (1) of the Municipalities Act. The District Magistrate at the end of his reference expresses what to me is an astounding opinion. He says: the lower Court may or may not believe the evidence, but I think it is exercising a very unwise discretion in fining them.' In the first place, Section 326 (1) of the Municipalities Act has nothing to do with the proceedings in a Criminal Court. It relates only to suits of a civil nature in a Civil Court. The wording of the section is plain and it has nothing to do with prosecutions under the Cattle Trespass Act. In the next place, it is very material indeed whether the evidence for the prosecution in the case was worthy of belief or not, The Magistrate has given his reasons and they are fairly cogent for holding that the seizure of the cattle was without justification and that no damage whatever had been done to the Municipal trees. No Municipal servant is authorised in these circumstances to seize and impound cattle. It is only where the latter are damaging or have damaged the Municipal trees, that these servants would be at all justified in impounding them. I must say I am surprised that the learned Sessions Judge should have sent up a reference of this nature without any remarks and without any expression of opinion. There is absolutely no force whatsoever in it and the time of this Court and other persons has been unnecessarily wasted in a very trivial matter. Let the record be returned.