

R. Simeon Vs. Emperor

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Court : Allahabad

Decided On : Mar-28-1922

Reported in : 66Ind.Cas.515

Judge : Ryves, J.

Appellant : R. Simeon

Respondent : Emperor

Judgement :

1. After deriding a Probate suit, the District Judge of Saharanpur, being o opinion that there were grounds for suspect log a criminal conspiracy in connection with the preparation and execution of the Will propounded, took proceedings under Section 476 of the Criminal Procedure Code against Raja Ram, alone, in the first instance. He came to the conclusion that four persons, three of whom are now before me, should be charged with various offenses. His order concludes, 'A copy of this order will be sent to the District Magistrate, Saharanpur, with a request that he will range proceedings to be instituted against the other three persons (i. e., other than Mr. Simeon). If the District Magistrate derides to institute proceedings he should inform the C. I. D. who investigated the age.' These words show that the order is not in the terms of Section 476 of the Criminal Procedure Code. In the case of Mr. Simeon, the Sub Registrar, the Judge took further proceedings under Section 476, Criminal Procedure Code, and ordered his trial under Section 193 of the Indian Penal Code. It has been held by the Full Bench of this Court that I can only interfere with such an order under Section 115 of the Civil Procedure Code.

No grounds under that section are alleged. But it is said I can and should interfere under the Government of India Act, on the ground that the trial must be infructuous. It has been said by a learned Judge of this Court that proceedings under Section 476 of the Criminal Procedure Code 1 are not in the nature of a dress rehearsal of the trial, and it is quite impossible for me to say at this stage what evidence will be forthcoming against Mr. Simeon. Then, an experienced Judge of the standing of the District Judge of Saharanpur, fully realising his responsibility, orders a trial for perjury committed before himself, I should be very loth to say, assuming that I have the power, that the trial shall not take place. With regard to Daulat Rai and Raja Ram, I think the order of the Judge amounts to a complaint. It is in the discretion of the Magistrate to take such proceedings as he may be advised. The result is that I reject the application.

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