

ibn Ali Vs. Emperor

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Court : Allahabad

Decided On : Jan-02-1935

Reported in : AIR1935All608; 155Ind.Cas.490

Appellant : ibn Ali

Respondent : Emperor

Judgement :

ORDER

Kendall, J.

1. This is an application for the revision of an order of the learned Sessions Judge of Moradabad dismissing an appeal against an order passed by the Magistrate under Section 476, Criminal P.C. by which it was ordered that a complaint should be made against the applicant under Section 193, Penal Code.

2. The facts are perfectly simple. The applicant is the editor of a paper in Moradabad, and he prosecuted the editor of another paper for defamation. His case was dismissed. The other editor was accused by him of defaming him by saying that the applicant had persuaded the other editor to write against the Nawab of Rampur and the administration of that State, and the applicant in his evidence stated on oath that he had never persuaded the accused to write against the Rampur State. The accused however was able to bring a number of witnesses to testify to hearing the applicant, giving instructions to the other editor to write

articles against the Rampur State. The witnesses were believed by the Court, which dismissed the applicant's case, and in the present, proceedings the Magistrate and, after him, the Sessions Judge have found that, this evidence, if it is believed, will be sufficient to convict the applicant of perjury, and for this reason his prosecution has been ordered.

3. Mr. Khwaja has drawn my attention to the provisions of Section 476, Criminal P.C. and has asked me to hold that the Courts have not really formed an opinion that, 'it, is expedient in the interests of justice that an inquiry-should be made.' An inquiry has already been made, and although the Courts have not, in so many words expressed the opinion that it is expedient that, a prosecution should follow, there can be no doubt that this was the meaning of both, Magistrate and Judge, and in fact the circumstances show clearly that on the face of it the evidence proved that, the applicant had told a lie with the object of misleading the Court for purposes of the case that he was prosecuting, so that there can be no question, but, that the prosecution for perjury is a perfectly proper proceeding. I do not wish to ex' press any opinion as to the value of the evidence on either side, as that is a matter for the Criminal Court to decide. But I cannot hold that the Courts below have acted in a manner that is illegal or improper or incorrect, and that there is any justification for interfering in revision. It has been pointed out that, the applicant is an old man of over 50 years and that he has been editing his paper in Moradabad for some 50 years. These are circumstances that, may justify lenient treatment of the applicant, if he has erred, but they could not justify the Magistrate in staying his hand on the ground that, a prosecution is not expedient in the interests of justice. The application therefore fails and is dismissed.