

Sarwan Vs. Emperor

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Court : Allahabad

Decided On : Feb-04-1916

Reported in : AIR1916All180; 33Ind.Cas.647

Judge : Tudball, J.

Appellant : Sarwan

Respondent : Emperor

Judgement :

Tudball, J.

1. The present is an application in revision against an order of the District Magistrate of Agra, dated the 2nd of November 1915, passed upon an appeal from an order of a Magistrate of the first class, dated the 25th of September 1915, under which the applicant is directed to furnish security to be of good behaviour under Section 110 of the Code of Criminal Procedure. The judgment of the Court of first instance can hardly be described as a satisfactory judgment. That of the Appellate Court can safely be described as no judgment at all. It covers four lines: 'it has been shown to be necessary to bind these men over under Section 110, Criminal Procedure Code, and after hearing arguments on their behalf I can find no reason whatsoever to interfere with the order.' The judgment does not even disclose whether or not the Magistrate even looked at the evidence. The law gives a person in the position of the present applicant a right of appeal to the District

Magistrate. He is in simple justice entitled to have the evidence in the case against him duly weighed and examined, and it is the duty of the District Magistrate to show by his judgment that he has done so, has appreciated the points both for and against the appellant and has brought a judicial mind to bear upon the case. A judgment of the description of the one which is now before the Court, tends to show that the appeal received scant attention at the hands of the District Magistrate, whose Court is presumably a Court of Justice. The appeal has not been properly tried. It must be re-tried according to law. On behalf of the applicant the natural request is made, that the case should go before some other District Magistrate who will bring an impartial mind to bear upon the facts. I, therefore, set aside the order of the District Magistrate. I direct that the appeal be re-heard and tried according to law. In the interests of the applicant I transfer the hearing of this appeal to the Court of the District Magistrate of Muttra.

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