

Mt. Masala Vs. Emperor and ors.

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Court : Allahabad

Decided On : Dec-16-1925

Reported in : AIR1926All368

Appellant : Mt. Masala

Respondent : Emperor and ors.

Judgement :

Daniels, J.

1. This is an application in revision against an order of the District Magistrate of Basti on appeal from a conviction under Sections 352 and 426, Indian Penal Code, The case was instituted before the Sub-Divisional Magistrate who made it over to the Tahsildar. The Tahsildar convicted the accused and sentenced them to payment of fine, No question of the application of the Village Panchayat Act seems to have been raised at any stage of the proceedings until the appeal was argued before the District Magistrate. The District Magistrate on the basis of Section 32 of that Act, considered that the Tahsildar had not jurisdiction to try the case and held his proceedings to be void and cancelled his order. The learned District Magistrate has entirely misunderstood Section 32 of the Village Panchayats Act which applies only to suits. The provision applicable to criminal cases is Section 31. It is urged that technically this order amounts to an acquittal and therefore this Court should not interfere in revision. This is just one of those cases in which the High Court is

justified in interfering, the appellate Court having wrongly considered that the whole of the proceedings in the trial Court were without jurisdiction. I accordingly set aside the order of the District Magistrate and direct him to re-hear the appeal.

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