

**Mt. Sudeshara Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/478457](http://sooperkanoon.com/478457)

**Court :** Allahabad

**Decided On :** Mar-09-1933

**Reported in :** AIR1933All818

**Appellant :** Mt. Sudeshara

**Respondent :** Emperor

**Judgement :**

ORDER

**Young, J.**

1. This is an application in revision from the order of the Sessions Judge of Benares, by which order he confirmed the conviction and sentence passed upon the applicant under Section 420, Penal Code. The complainant pawned certain ornaments with the accused, Mt. Sudeshara. He alleged that he repaid her the money, but that she refused to return the goods. The defence was that the transaction took place through one Mt. Katoni, and that Mt. Katoni subsequently borrowed another Rupees. 80, and naturally the pawn-broker would not return the articles until the subsequent loan was repaid. There was. a dispute in this case which I think clearly ought to have been settled in the civil Court. I do not intend to go into the merits of the matter, but it is worthy of note that Mt. Katoni did give evidence in the criminal case in favour of the accused. Too often do persons with claims often doubtful take criminal proceedings in the hope that the defendant will

pay the amount claimed rather than face a criminal charge. To use the criminal Courts for enforcing a civil claim is highly improper; it may almost amount to blackmail. The learned Judge in the Court below says:

It is true that the case might very naturally have been brought in a civil Court, and the complainant possibly chose the criminal Courts simply because they are cheaper.

2. This is no ground for making a criminal charge against a person against whom there is a civil claim., I accept the application in revision, set aside the conviction and sentence and order the fine, if paid, to be refunded. The complainant will be left to his remedy in the civil Court.

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