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Asghar Ali Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/479827

Court : Allahabad

Decided On : Apr-13-1923

Reported in : 76Ind.Cas.1040

Judge : Ryves, J.

Appellant : Asghar Ali

Respondent : Emperor

Judgement :

Ryves, J.

1. This is a revision from the 0 order of a Special Magistrate of Moradabad ordering the applicant to return Rs. 300 in three instalments, under Section 2 of Act XIII of 1859 as amended by Act XII of 1920. which is the Workman's. Breach of Contract Act.

2. Admittedly, the applicant and the complainant in the case had executed an agreement by which the accused had undertaken to work day after day for twelve months. This agreement was dated the 22nd June 1921. The complaint was brought in November 1922 and it was brought on the ground that the total number of days that the accused worked did not amount to 365. This does not in any way seem to me to be the same as the terms of the agreement, i.e., to work every day without fail for the term of one year. The max mum, period fixed by that agreement

was one calendar year and the failure to work any day during that period was a breach of the agreement on which the complainant could take action. He could therefore, take action at any time during the year which began with the agreement on the 22nd June 1921 and the period of limitation was three months from any breach of the agreement i.e., any neglect or refusal to work which took place within the calendar year starting, on the day of the agreement. Therefore the last date for him to lodge a complaint was the 21st September 1922 and this case is time-barred. It appears to me that it is not open to the complainant to say that the. agreement that the accused should work every day, for a| year should be transformed by the Court into an agreement to work for 365 days at odd intervals, if the complainant so chose, when the accused should fail to work one day after the other.

3. I, therefore, forward the record to the Hon'ble High Court with a recommendation that the order of the lower Court should be set aside.

4. I accept the reference and set aside the order of the Magistrate.

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