

Udai Raj Singh Vs. Emperor

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Court : Allahabad

Decided On : May-19-1922

Reported in : AIR1922All429; 71Ind.Cas.528

Judge : Ryves, J.

Appellant : Udai Raj Singh

Respondent : Emperor

Judgement :

Ryves, J.

1. In this case proceedings were taken against Udai Raj Singh under Section 110 of the Criminal Procedure Code. The matter was inquired into by a Magistrate who heard a large number of witnesses on both sides and in a well-considered judgment came to the conclusion that it was not proved that orders under section no of the Criminal Procedure Code should issue against Udai Raj Singh. The District Magistrate, without issuing notice, ordered further inquiry under Section 437 of the Criminal Procedure Code. On revision this Court set aside that order. Notice was then sent to Udai Raj Singh, and the successor of the then District Magistrate ordered further inquiry. The reasons given really amount to this that if the Trying Magistrate had taken a proper view of the evidence, that is to say, the view which the District Magistrate felt inclined to take, then he would have passed orders under section no of the Criminal Procedure Code. He now refers the matter

back to him for further) inquiry as he calls it, but really, it seems to me, with a recommendation or advice that orders under section no of the Criminal Procedure Code were indicated. I do not think Section 437 was ever intended for a case like this. In my opinion, the Trying Magistrate was quite entitled to come to the opinion which he did, and merely because another Court does not agree with that opinion, is no reason to direct the so-called further inquiry. There is no suggestion that further evidence is available or should be taken. Under these circumstances I set aside the order under Section 437. If, of course, in future it becomes necessary to take proceedings against Udai Raj Singh, this will be no bar to such proceedings.

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