

Dukhi Vs. Emperor

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Court : Allahabad

Decided On : Apr-26-1923

Reported in : AIR1924All141; 74Ind.Cas.448

Judge : Daniels, J.

Appellant : Dukhi

Respondent : Emperor

Judgement :

Daniels, J.

1. This case has been referred by the learned Sessions Judge at Allahabad on the ground that an order under Section 106 of the Code of Criminal Procedure was passed without jurisdiction. A case under sections 352 and 506 of the Indian Penal Code was before a Magistrate of the Second Class. Being of opinion that the accused should be bound over under Section 106 of the Code of Criminal Procedure, he referred the case to, the Joint Magistrate. The Joint Magistrate passed an order under Section 106 but did not deal with the substantive charge and on his sending the record back the accused were convicted by the Second Class Magistrate in whose Court the case originally was. Under these circumstances, the learned Sessions Judge is right in saying that the Joint Magistrate acted without jurisdiction. The learned Sessions Judge appears to be of opinion that the order was a proper order on the merits but he has not thought it

necessary, to ask this Court to restore the order in the exercise of its revisional jurisdiction under Section 106(3) of the Code of Criminal Procedure. I accept the reference and set aside the order passed under Section 106.

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