

Narain Prasad Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/482393

Court : Allahabad

Decided On : Jul-15-1929

Reported in : AIR1929All898

Appellant : Narain Prasad

Respondent : Emperor

Judgement :

Dalal, J.

1. Though the application in revision was not admitted specifically I have heard arguments of both parties. The Court of an Assistant Collector refused to make a complaint against the applicant Narain Prasad under Section 471, I.P.C., for forging certain receipts. The opposite party Puttu Lal went in appeal under Section 476-B to the District Judge who did make such a complaint. This is an application in revision from the order of the District Judge. It was first argued that an appeal lay to this Court as the complaint was made by the District Judge and not by the Assistant Collector. This argument is not sound. Such circumstances would arise if the District Court had taken action under Section 476-A. It is open to a person interested to move the appellate Court direct, and if the trial Court has not passed any order in the matter, the appellate Court may make the complaint without the intervention of the trial Court. In such a case an appeal would lie to this Court. No appeal, however, is allowed from a complaint made by an appellate Court under

Section 476-B.

2. The next question is whether a revision would lie under the Criminal Procedure Code or under the Tenancy Act. If one lay under the Tenancy Act, Section 253, no cause for interference would arise as the District Judge has acted within his jurisdiction, and I can see no irregularity in his procedure.

3. As to jurisdiction of this Court under Sections 436 and 439, Criminal P.C., there is a Full Bench ruling of this Court in bar of the exercise of jurisdiction under those sections: In the matter of Bhup Kunwar [1905] 26 All. 249. The Full Bench judgment was delivered prior to 1923 when certain changes were made in the provisions relating to prosecution for offences committed in Courts. A learned Judge of this Court followed the Full Bench ruling in 1925 in Banwari Lal v. Jhunka : AIR1926 All229 , for the reason that the provisions of Section 439, Criminal P.C., were not altered in 1923. His attention, however, does not appear to have been drawn to the provisions of Section 561-A added in 1923, according to which, nothing in the Code of Criminal Procedure shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under the Code, or to prevent abuse of the process of any Court, or otherwise to secure the ends of justice. Having regard to those provisions I would have submitted this matter to a larger Bench.

4. I, however, do not consider such action necessary as on the facts, disagreement by way of revision with the direction of the District Judge is not possible. The District Judge has considered the matter with care, and if his reasons are not sound that matter may be decided at the trial of Narain Prasad. There is no prima facie defect in the complaint of the District Judge, and I dismiss this application.