

Rekha Chamar Vs. Emperor

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Court : Allahabad

Decided On : Mar-19-1924

Reported in : 83Ind.Cas.736

Judge : Dalal, J.

Appellant : Rekha Chamar

Respondent : Emperor

Judgement :

Dalal, J.

1. On the 27th September the District Magistrate of Azamgarh ordered the prosecution of one Rekha Chamar under Section 182 of the Indian Penal Code and of Rambali for abetment of that offence. A complaint was lodged in his Court by Rekha Chamar against the Tahsildar of Mohammadabad and three other persons for committing an offence of simple hurt under Section 323 of the Indian Penal Code. The District Magistrate did not record the complainant's statement as he was bound to do under Section 200 of the Code of Criminal Procedure but immediately directed the Deputy Superintendent of Police to make an enquiry in the matter. This order was illegal. The proviso to Section 202 of the Code of Criminal Procedure specifically lays down that no-such direction for an enquiry shall be made unless the complainant has been examined on oath under the provisions of Section 200, On receiving the report of the Deputy Superintendent

the District Magistrate passed the order already referred to The prosecution of Rambali appears to have been ordered on account of some reference in the report of the Deputy Superintendent, There is no mention of Rambali in the petition of Rekha Chamar.

2. The learned Sessions Judge refused to cancel the order for prosecution and so Rekha and Rambali have applied here in revision. The proceedings of the District Magistrate were taken to such a great extent in disobedience of Statute-Law that it will not be equitable to confirm his order for prosecution. At no stage has he brought his mind to bear' upon the matter in issue. He has given no reason why he has accepted the report of the Deputy Superintendent of Police. The law very properly enjoins that the Court having jurisdiction must examine the complainant so as to think out for itself whether the complaint is true or false. Such a decision cannot be left by the Court to some other Court or Police authority. So far Rekha has had no hearing in a Court of Law. The District Magistrate does not appear to have understood that the application before him was a regular complaint and not an application for sanction to prosecute the Tahsildar.

3. In the result I set aside the order of the District Magistrate of Azamgarh dated 27th September and direct that any proceedings, if already taken against Rekha and Rambali, shall be cancelled.