

Kewal Ram Vs. Emperor

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Court : Allahabad

Decided On : Feb-08-1926

Reported in : AIR1926All421

Appellant : Kewal Ram

Respondent : Emperor

Judgement :

Daniels, J.

1. In this case the view taken by the learned Sessions Judge is correct. A sanction for the prosecution of the applicant had been given in the year 1922, long before the amendment of the Criminal P.C. which radically altered the provisions of Section 195. Owing to the fact that the records were in the High Court in connexion with an appeal at the time when the application was filed in pursuance of the sanction, the Court below ordered that as it would require a considerable time for the case in High Court to be decided the papers should be deposited for the present and the complainant might file a fresh petition when the High Court appeal was decided. If it was merely a matter of the record being in the High Court the records would have been sent down to the Court below to enable this case to be disposed of if the Magistrate had applied for them. In any case no pending case should ever be postponed without a date being fixed. The High Court decided the appeal in April 1924. The complainant applied to revive the prosecution in July

1925. There was a considerable delay, but that is not the point now before the Court. He himself alleged that he had been ill. The question raised in this revision is whether the amendment of the Criminal P.C. rendered it illegal for the Court below to proceed with the trial. It has been held, and rightly, that when once the amended Code had come into force no sanction for a prosecution could be granted even though the offence was committed prior to the amendment. That was the case of *Ameraj Singh v. Emperor* : AIR1925 All306 . The present case is entirely different. No amendment of the Code could affect the legality of a prosecution already instituted. The order of the learned Judge is, therefore, correct and I dismiss the application in revision.

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