

Dal Chand Vs. Emperor

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Court : Allahabad

Decided On : Jan-23-1940

Reported in : AIR1940All195

Appellant : Dal Chand

Respondent : Emperor

Judgement :

ORDER

Rachhpal Singh, J.

1. This is a reference by the learned Sessions Judge of Agra, recommending that an order passed by the trial Magistrate should be set aside and the case should be retried according to law. The facts can briefly be stated as follows: One Dal Chand had made a report to the police against certain persons. The prosecution case was that report was false and Dal Chand was prosecuted under Section 182, Penal Code, for making a false report. The case was tried by Mr. Kehar Singh, a Magistrate of the First Class in the district of Agra. It appears from the order of the learned Sessions Judge that he recorded the evidence of several prosecution and defence witnesses but the judgment written by him was as follows: 'Dal Chand is fined Rs. 25 or two months rigorous imprisonment in default.'

2. The learned Sessions Judge is perfectly right in saying that this is no judgment at all. Under the law summary powers can be given to certain Magistrates and it is

expected that such powers are given to those Magistrates only who have got sufficient experience of criminal work. There is a grave responsibility on the shoulders of the Magistrates who have to try cases summarily. They are relieved of the necessity of recording the evidence of witnesses in a certain class of cases, but they must remember that the accused as well as the complainant have a right to expect a fair and an intelligent decision from them. If a Magistrate thinks that all that is necessary for him to say by way of judgment is that he sentences an accused to imprisonment or fine, then I have no hesitation in saying that he is not doing his duty properly. It has to be remembered that cases have to go to the higher Courts when persons are convicted and the Magistrates should understand that it is their duty to write their judgments carefully. They may be concise and they need not be elaborate, but they should show on the face of them that the cases of both parties have been carefully and properly considered. Section 263, Clause (h), Criminal P.C., enjoins that a brief statement of reasons for the order should be given by the Magistrate. It is absolutely necessary that this should be done, otherwise the general public is likely to lose faith in the administration of justice. I have considered it necessary to make these observations because this is not the first case of this kind tried by this Magistrate, Mr. Kehar Singh, which has come before me. I have had more than one case already in which I found that the judgment was almost similar. I find from the record that this Magistrate has been transferred from the district of Agra. I would direct that a copy of this order should be sent to Mr. Kehar Singh, Magistrate, by the Registrar of this Court for his information and future guidance. The reference made by the learned Sessions Judge is accepted, the conviction and sentence of the accused are set aside and it is directed that there will be a fresh trial in the case as recommended by the learned Sessions Judge.