

Durga Prasad Vs. Shivnarain

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Court : Madhya Pradesh

Decided On : Jan-06-1956

Reported in : 1957CriLJ198

Judge : Dixit, J.

Appellant : Durga Prasad

Respondent : Shivnarain

Advocate for Def. : Mr. Ramroop Tiwari

Judgement :

Dixit, J.

1. The facts of this appeal are that the appellant Durga Prasad made an application in the Court of Small Causes Lashkar for the institution by that Court of a complaint against Shivnarayan in respect of offences under Sections 209 and 193 I. P. C. It was said that Shivnarain had committed the said offences in a civil suit decided by the Court of Small Causes. The learned Judge of the Court of Small Causes refused to make any complaint against Shivnarain. Durga Prasad has now filed this appeal under Section 476-B Cr. P. C.

2. Mr. Ramroop Tiwari learned Counsel for the respondent has taken the preliminary objection that this appeal is incompetent inasmuch as the Court of

Small Causes is not a Court Subordinate to this Court within the meaning of Section 476-B and Section 195 Cr. P. C. This objection must, in my opinion, prevail. Under Section 476-B an appeal from a decision of any civil revenue or criminal court refusing to make a complaint under Section 476 or 476-A lies to the Court to which the civil, revenue or criminal Court is subordinate within the meaning of Section 195(3) of the Code.

Now under Section 195(3) a court is deemed to be subordinate to the court to which appeals ordinarily lie from the appealable decrees or sentences of such former court or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such civil court is situate.

No appeal lies from the decisions of the Court of Small Causes, Therefore under Section 476-B read with Section 195 (3) Cr. P. C., an appeal against an order passed by the Court of Small Causes refusing to make a complaint under Section 476 would lie to the principal court of ordinary original civil jurisdiction where the Court of Small Causes is situated.

Here the principal court of ordinary original civil jurisdiction is clearly the Court of District Judge Gwalior. The appeal should have been, therefore, filed in the Court of District Judge Gwalior and not in this Court. It is clearly incompetent and is accordingly rejected.

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