

The Empress Vs. in the Matter of the Petition of Jamoona

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Court : Kolkata

Decided On : Jan-22-1881

Reported in : (1881)ILR6Cal620

Judge : Mitter and ;Maclean, JJ.

Appellant : The Empress

Respondent : In the Matter of the Petition of Jamoona

Judgement :

Mitter, J.

1. This case came before one of the Judges of the present Bench in the vacation, and it occurred to him that no charge was made to any one competent to act upon it. Enquiries were, therefore, made as to the powers (magisterial or police) of the Station Staff Officer.

2. From the papers within it will be seen that he has no such powers.

3. The appellant appeared before Captain Simpson, Adjutant, 11th M. N. I., and Station Staff Officer, and charged a non-commissioned officer with rape. There was an enquiry, and the charge being found to be false by the military authorities, the Commanding Officer caused the appellant to be prosecuted before the criminal authorities under Section 211. She was committed for trial, and convicted by the

Judicial Commissioner under that section.

4. We are of opinion that the appellant neither instituted, nor caused to be instituted, a criminal proceeding. She, no doubt, charged the non-commissioned officer with an offence; but the Station Staff Officer having neither magisterial nor police powers, as we are informed, it seems to us that Section 211 will not apply. We do not think it is unduly refining the words of the section to say that the false charge must be made to a Court or to an officer who has powers to investigate and send up for trial.

5. We, therefore, set aside the conviction, and direct the appellant's discharge.

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