

Sheikh Samir Vs. Sajidar Rahman

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Court : Kolkata

Decided On : Feb-25-1926

Reported in : AIR1927Cal95

Appellant : Sheikh Samir

Respondent : Sajidar Rahman

Judgement :

1. In this matter what has happened is this. The accused, Sajidar Bahman, made a complaint before the Deputy Commissioner of Police on the 18th February 1925, charging the petitioner and others with having, on the 16th February 1925, in front of the Registration Office on the north side of the Government House, snatched away two Government currency notes for Rs. 1,000 each. The police submitted a report on the 2nd March 1925, but the accused, Sajidar Rahman, not having been found in Calcutta, the Deputy Commissioner of Police ordered, on the 2nd April 1925, that the petition should be filed. On the 9th April the petitioner filed a complaint against the accused, Sajidar Rahman, under Section 211, I.P.C., for having falsely and maliciously filed the said complaint before the Deputy Commissioner of Police. The Chief Presidency Magistrate issued process against Sajidar Rahman on the 4th May 1925. Thereupon Sajidar Rahman appeared and laid a complaint against the petitioner, on the 10th June 1925, and the petitioner was charged with offences under Sections 420 and 403 of the Indian Penal Code. Both the cases were transferred to Mr. H.K. De, Presidency Magistrate, for trial.

2. Mr. De, after taking evidence in the case against the petitioner acquitted him, under Section 258 of the Criminal P.C., on the 14th December 1925. The petitioner thereupon applied to the Magistrate that the case by him against the accused should be proceeded with. Mr. De, however, held that the case by the petitioner against the accused should not be proceeded with, having regard to what he had found in the counter case, and he thereupon discharged the accused, Sajidar Rahman, under Section 253, Cr. P.C.

3. It appears to us that the allegations in the two cases were more or less the same, and, therefore, no prosecution under Section 211, I.P.C., is sustainable without complaint being first made by the Court which tried the case of the accused against the petitioner : see in this connexion *Brown v. Ananda Lal Mullick* [1916] 44 Cal. 650, On that short ground we are of opinion that this Rule fails, and we accordingly discharge it.

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