

The Empress Vs. Ram Lall

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Court : Kolkata

Decided On : May-06-1882

Reported in : (1882)ILR8Cal875

Judge : Prinsep and ;O'Kinealy, JJ.

Appellant : The Empress

Respondent : Ram Lall

Judgement :

Prinsep, J.

1. This reference has been made because the Cantonment Magistrate, who tried the case, and the District Magistrate, are of opinion that the Sessions Judge, as an Appellate Court, has improperly reduced the sentence passed.

2. The powers of the District Magistrate, in referring cases to this Court as a Court of Revision, are described in Sections 295, 299 of the Code of Criminal Procedure. Section 295 declares that the District Magistrate 'may at all times call for and examine the record of any Court subordinate to him for the purpose of satisfying himself as to, the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court'; and Section 296 adds that, if the District Magistrate 'is of opinion that the judgment or order is contrary to law, or that the punishment is too severe or inadequate, he may report the proceedings

for the orders of the High Court.' But Section 296 is controlled by Section 295, and it was certainly never intended that a subordinate Court should have the power of questioning the propriety of an order passed by a Court of Appeal, and should refer the order of an Appellate Court to the High Court for revision, because it considers that the original sentence was a proper sentence and should not have been reduced. If this were possible, every order of this description would most probably come before the High Court on revision, and there would be no finality, such as the law contemplates, in the order of an Appellate Court. We, therefore, decline to interfere.

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