

Empress Vs. Paramananda and ors.

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Court : Kolkata

Decided On : Sep-04-1883

Reported in : (1884)ILR10Cal85

Judge : Prinsep and ;O'Kinealy, JJ.

Appellant : Empress

Respondent : Paramananda and ors.

Judgement :

Prinsep and O'Kinealy, JJ.

1. The prisoner has been convicted under Section 304 of the Code of Criminal Procedure by an officer invested with the special powers described in Sections 30 and 34, of the Code of Criminal Procedure.
2. The Sessions Judge, to whom the sentence has been submitted for confirmation, has referred the case to this Court, as a Court of Revision, to have these proceedings set aside, and the Deputy Commissioner directed to commit the case for trial in this Court.
3. Section 209 empowers a Magistrate holding an enquiry to try the case himself if he thinks that only an offence within his jurisdiction has been committed. This is the course which we understand the Deputy Commissioner has taken, and we

cannot, therefore, hold that it is not authorised by law, or that he has acted without jurisdiction merely because there is some evidence which, if believed, would substantiate the charge of murder an offence beyond his jurisdiction. At the same time we think that this course should be very rarely, if ever, taken by any officer invested with special, powers under Sections 30 and 34, of the Code of Criminal Procedure, and that in adopting it, any such officer incurs a very grave responsibility. Looking to the evidence on the record, especially the medical evidence, we are not inclined to doubt the correctness of the finding of the Deputy Commissioner, and, therefore, we are unable to set aside the proceedings. The Sessions Judge will, therefore, proceed according to law.

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