

Shama Vs. Lechhu Shekh

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Court : Kolkata

Decided On : Sep-09-1895

Reported in : (1896)ILR23Cal300

Judge : Macpherson and ;Banerjee, JJ.

Appellant : Shama

Respondent : Lechhu Shekh

Judgement :

Macpherson and Banerjee, JJ.

1. We must hold that the Bench of Magistrates had no jurisdiction to try this case, which was brought under Section 20 of the Act I of 1871, by the complainant, who complained of the illegal seizure of her cattle. The jurisdiction conferred by Sections 20 to 23 of the Act on the Magistrate of the District, or a Magistrate authorized to receive and try charges without reference by the Magistrate of the District, is, we think, a special jurisdiction, and as such, it is by Section 1 of the Code unaffected by the provisions of the Code. Section 192 of the Code does not, therefore, authorize the transfer of a case to which Sections 20 to 23 of the Act I of 1871 apply to a subordinate tribunal. There is, we may add, no provision for an appeal in such a case, which is quasi-civil, and we think it is clear that the jurisdiction was intended to be limited to the Magistrates specially referred to. The case of In the matter of Ketabdi Mundul (2 C.L.R. 507) supports this view.

2. We may add that the Bench of Magistrates has entirely mistaken the nature of the case, and has treated the act charged as a criminal offence punishable with fine, and imprisonment in default of payment of the fine. The sections in question only authorize the award of reasonable compensation, not exceeding Rs. 100, to the complainant for any loss caused by the illegal seizure. The order does not appear to have been made with reference to any loss so caused.

3. The order will be set aside and the fine, if realized, refunded.

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