

The Empress Vs. Hurro Kole

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Court : Kolkata

Decided On : Aug-31-1882

Reported in : (1883)ILR9Cal288

Judge : Wilson and ;O'Kinealy, JJ.

Appellant : The Empress

Respondent : Hurro Kole

Judgement :

Wilson, J.

1. This is an appeal from a conviction by the Superintendent of the Cuttack Tributary Mehals. The offence was committed in Mohurbunj. The accused is a native of Mohurbunj. The trial took place at Balasore. It has been decided by a Pull Bench that Mohurbunj is not a part of British India *The Empress v. Keshab Mohajan* I.L.R. 8 Cal. 985. The Superintendent of Tributary Mehals and his Assistant exercise jurisdiction over offences committed in those mehals, including Mohurbunj, under regulations and instructions which were examined in the case just referred to and in *Hursee Mahapatro v. Dinabundhu Patro* I.L.R. 7 Cal. 528.

2. We have not now to consider whether the jurisdiction as exercised is in accordance with law or not, but only whether we have any power to interfere with the decision of the tribunal. We think this Court has no such power, either by way

of appeal or of revision. The Letters Patent now in force (those of 1865) by Section 27, make this Court a Court of Appeal 'from the Criminal Courts of the Bengal Division of the Presidency of Fort William and from all other Courts subject to its superintendence.' Those words, according to the well-known rule of construction, must mean British Indian Courts, that is to say Courts established in and for British India. Section 28 makes the Court 'a Court of reference and revision from the Criminal Courts subject to its appellate jurisdiction.' This section, therefore, carries the case no further. The Criminal Procedure Code gives an appeal to this Court only from Sessions Judges and certain other specified officers, all of whom are British Indian officers and exercise their functions in and for British India. The revisional powers given by the Code are likewise limited to the Courts subordinate to this Court, which, for the reasons already pointed out, must be restricted to British Indian Courts. This appeal must be rejected on the ground that we have no power to entertain it.

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