

RakimuddIn Ahmed Vs. Naimullah

RakimuddIn Ahmed Vs. Naimullah

SooperKanoon Citation : sooperkanoon.com/873552

Court : Kolkata

Decided On : Feb-13-1911

Reported in : 9Ind.Cas.623

Judge : Chitty and ;N. Chatterjea, JJ.

Appellant : RakimuddIn Ahmed

Respondent : Naimullah

Judgement :

1. This is a Rule taken out by the second defendant in a Small Cause Court suit calling upon the plaintiff to show cause why the judgment and decree of the Small Cause Court Judge against defendant No. 1 and himself should not be set aside.
2. The petition alleged certain ground which the learned Counsel for the petitioner has not pressed before us.
3. It appears that the suit was brought by the plaintiff to recover from the three defendants, who are Police Officers, a sum of Rs. 155 alleged to be the amount of a bribe, which was extorted by these Police Officers, to induce them to restrain from searching the house of Manghi, the petitioner's brother, and so putting him to shame. The Small Cause Court Judge has in a very lengthy judgment come to the conclusion that the claim was proved and has passed a decree for the amount claimed. We are now invited to set that decision aside.

4. In the first place it is clear that the Small Cause Court had jurisdiction to try the case inasmuch as it is not a suit which falls within the second Schedule to the Provincial Small Cause Courts Act. It may be, that the omission to include such a suit in that Schedule is due to the fact that such suits are extremely rare and it never occurred to the framers of the Act to make a regular class of them as suits to be excluded. It may also be a matter of regret that a suit of this nature should have been brought in a Small Cause Court and thus the unsuccessful party be deprived of an appeal upon the facts. But as the law stands, there is nothing to prevent the Small Cause Court from taking cognizance of the suit, and it would be impossible for us to interfere in revision merely on grounds of expedience.

5. It is argued for the petitioner that the decision is wrong because it was based upon the evidence of accomplices, which was not corroborated. As to this, the learned Judge has given the names of the various persons who support the plaintiff's case. It does not appear that all these persons were accomplices in the sense of being participators in the offence of giving the bribe. This being so, even if the plaintiff and some of his witnesses might be said to be offenders, their evidence appears to have been corroborated by others who were not so implicated.

6. The Rule must, therefore, be discharged. Under the circumstances we make no order as to costs.