

Ramharicohakraverty and ors. Vs. Santosh Kumar Manna

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SooperKanoon Citation : sooperkanoon.com/880868

Court : Kolkata

Decided On : Jun-09-1922

Reported in : 69Ind.Cas.461

Judge : Lancelot Sanderson, C.J. and ;Panton, J.

Appellant : Ramharicohakraverty and ors.

Respondent : Santosh Kumar Manna

Judgement :

Lancelot Sanderson, C.J.

1. This was a Rule sailing upon the District Magistrate to show cause why the appeal should not be re heard on the first and second grounds mentioned in the petition.

2. The first and second grounds are, that ' The learned District Magistrate's order dismissing the appeal summarily is not proper, ' and, ' That the proper disposal of; the appeal required at least an examination of the document, Exhibit A, and the same not having been done, the appeal has not been properly disposed of.'

3. The petitioners were convicted and they appealed to the District Magistrate who dismissed the appeal summarily. Two of my learned brothers thought it desirable that the learned District Magistrate should show cause why the appeal should not be re-heard, The explanation which has been forwarded by the District Magistrate

is as fellows: 'I should not be justified in taking up their Lordships' time over this trumpery case.' In my judgment this Rule should be made absolute. The learned Judges on reading the judgment came to the conclusion that it was not a case which should have been dismissed summarily and I see no reason for differing from that opinion. Consequently the Rule should be made absolute.

4. It appears from the order-sheet that there was an order recorded on the 23rd January 1922 as follows: 'Admit appeal.' It also appears that the learned Magistrate heard the Pleader on the 13th February 1922 and then on the 25th February, he dismissed the appeal summarily. If the learned Magistrate did, in fact, admit the appeal on the 23rd January 1922 in the way in which the admission of an appeal is generally understood, it must be taken that he had no jurisdiction to dismiss it summarily. That is an additional reason for making this Rule absolute. But I do not base my judgment on that ground. The first reason which I have stated is sufficient. I desire to add that in view of the fact that two learned Judges of this Court issued a Rule calling on the District Magistrate to show cause why the appeal should not be re-heard it was hardly in accordance with the respect usually paid to the decisions of this Court for the Magistrate to give no explanation beyond saying that he would not be justified in taking up the Judges' time over such a trumpery case. The appeal has been summarily dismissed and no reasons were given for the learned District Magistrate's decision and when the Rule was issued this Court was at least entitled to know the reasons which actuated the learned District Magistrate in arriving at his decision.

5. The Rule is accordingly made absolute and the case remitted in order that the appeal may be re-heard.

Panton, J.

6. I agree.