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PALLIA
v.
MATHURA
PRASAD.

Judge does not appear to have directed himself either to the question of what he might have done, or to the question of what he did, and in quoting the rule under which he was exercising his jurisdiction, he left out that important requirement. His order cannot be supported.

I agree with my learned brother's view as regards the Calcutta decision. . . . I think that in cases where no question of principle, but only a question of practice or procedure arises, it is well to follow the decisions of the High Courts in other provinces as far as possible and having regard to the fact that the decision of the Calcutta Bench was passed as long as thirty-three years ago, speaking for myself, I should prefer to follow and adopt that ruling.

BY THE COURT.—The appeal is allowed and the order of the court below is set aside with costs in both courts.

Appeal allowed.

1916
January, 28.

REVISIONAL CRIMINAL.

Before Mr. Justice Piggott.

EMPEROR v. MURLI DHAR AND ANOTHER *

Act No. XLV (Indian Penal Code), section 228—Intentional insult to an officer sitting judicially—Application for transfer.

An accused person in an application for transfer of the case pending against him made an assertion to the effect that the persons who caused the proceeding to be instituted were on terms of intimacy with the officer trying the case and that therefore he did not expect a fair and impartial trial. *Held* that, there being no intention on the part of the applicant to insult the court, but merely to procure a transfer of his case, he was not guilty of an offence under section 228 of the Indian Penal Code. *Queen-Empress v. Abdulla Khan* (1) followed.

THE facts of this case were as follows :—

One Murli Dhar was being tried along with others by a Deputy Magistrate under section 107 of the Code of Criminal Procedure. During the trial Murli Dhar and his son Gauga Ram presented to the Magistrate an application for an adjournment

* Criminal Revision No. 958 of 1915, from an order of L. Johnston, Sessions Judge of Meerut, dated the 10th of March, 1915.

of the case on the ground that they were intending to apply for transfer of the case to another court. In this application they stated that the persons who had caused proceedings under section 107 to be instituted against the petitioners were friends of the Magistrate and therefore they had apprehension that they would not get a fair and impartial trial in the court of the said Magistrate. On this application the Deputy Magistrate instituted proceedings under section 228 of the Indian Penal Code, and convicted the petitioners. The Sessions Judge upheld the conviction on appeal. The petitioners thereupon applied to the High Court in revision.

Mr. *J. M. Banerji*, for the applicants.

The Assistant Government Advocate (Mr. *R. Malcomson*), for the Crown.

Piggott, J.—Murli Dhar and Ganga Saran have been convicted of an offence under section 228 of the Indian Penal Code in consequence of certain expressions used by them, while occupying the position of accused persons, in the course of a petition presented to a court. The immediate object of this petition was to obtain an adjournment of the case on the ground that the persons accused were intending to apply for transfer of the proceedings to another court. The petition was not happily worded, and as a matter of fact there was no obligation on the petitioners to explain to the court at all the grounds on which they intended to apply for the transfer. The question, therefore, is whether it follows as a fair presumption from the wording of the petition that the intention of the persons presenting the same was to offer insult to the presiding officer of the court. The learned Sessions Judge in affirming the conviction admits that his attention was called to the case of *Queen-Empress v. Abdulla Khan* (1), and has taken it upon himself to hold that that case is not of general application and that, if the same point were again raised before this Court, it would be differently decided. The learned Sessions Judge was not entitled to deal with a decision of this Court in this fashion. The present case is a much weaker one against the applicants than was the case of *Abdulla Khan*. I cannot say that, if I had been sitting as a Magistrate to try a gentleman known to be a personal friend of mine on a criminal charge, I

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should have considered myself insulted by the presentation of a petition in the language of that which has formed the basis of the present prosecution, though I might possibly have pointed out to the person responsible for the drafting that his object could be attained by a petition more courteously worded. I do not think this conviction can be sustained. I set it aside accordingly, acquit Murli Dhar and Ganga Saran of the offence charged and direct that the fine, if paid by them, should be refunded.

Conviction and sentence set aside.

1916
 February, 11.

FULL BENCH.

Before Sir Henry Richards, Knight, Chief Justice, Justice Sir George Knox and Mr. Justice Tudball.

RANGI LAL AND ANOTHER (PLAINTIFFS) v. JASSA AND OTHERS (DEFENDANTS).
 Act (Local) No. III of 1901 (United Provinces Land Revenue Act), sections 56 and 86. Cess—Rent—Rent payable partly in cash and partly in kind.

Certain tenants holding under a *qabuliat* agreed to pay as rent a fixed sum in money and also certain quantities yearly of *bhusa*, *charri*, grain and sugarcane, described in the *qabuliat* as *rasum zamindari*.

Held that, notwithstanding that the payments in kind were described as "*rasum zamindari*," they were nevertheless part of the rent and could be recovered by the lessor, and did not fall within the purview of section 56 or section 86 of the United Provinces Land Revenue Act, 1901. *Sis Ram v. Asghar Ali* (1) distinguished.

THE facts of the case were as follows :—

The defendants in 1881 made a usufructuary mortgage of their zamindari property to the plaintiffs, but later on resumed possession of the property on execution of a *qabuliat*, under which they consented to pay to the plaintiffs mortgagees, Rs. 795 yearly, together with *rasum zamindari* detailed at the foot of the deed, which consisted of a certain quantity of *charri*, *bhusa*, maize, *hola* and sugarcane. The suit was brought by the plaintiffs in the Revenue Court to recover arrears of rent for 1319 and 1320 Fasli, including both the cash rent and the items of

* Second Appeal No. 1475 of 1914, from a decree of A. G. P. Pallan, District Judge of Saharanpur, dated the 23rd of July, 1914, modifying a decree of Bir Narain Singh, Assistant Collector, first class, of Saharanpur, dated the 27th of June, 1913.