

## REVISIONAL CRIMINAL.

1914  
December, 11.*Before Justice Sir George Knox.*

EMPEROR v. RAM CHANDRA.\*

*Criminal Procedure Code, section 345—Compounding offences—Revision—Powers of High Court—Court not competent to allow composition in revision.**Held, that the High Court has no power to allow a case to be compounded which is before it in the exercise of its revisional jurisdiction.*

THIS was a reference made by the Sessions Judge of Meerut in which he suggested that the High Court might under special circumstances permit a certain case to be compounded. The facts out of which the reference arose appear from the Sessions Judge's order, which was as follows:—

“On the 12th of October, Umrao Singh was convicted by Mr. Sale, Joint Magistrate of Meerut, under section 325 of the Indian Penal Code in respect of grievous hurt caused to his mother Musammat Gomti. He has appealed and Musammat Gomti has filed an application to be permitted to compromise the case considering the comparative lightness of the injury which constituted grievous hurt and the relation of the parties. I have accepted the compromise and acquitted Umrao Singh under section 345 of the Code of Criminal Procedure.

“At the time Mr. Sale convicted Ram Chandra under section 352 of the Indian Penal Code for an assault committed on Musammat Gomti in the same quarrel and sentenced him to fifteen days rigorous imprisonment. Ram Chandra has applied in revision and Musammat Gomti has filed an application to compromise the case against him.

“Under section 438, Code of Criminal Procedure, I report the case for the orders of the Hon'ble High Court with the recommendation that the compromise be accepted, that the non-appealable sentence passed upon Ram Chandra be reversed and that he be acquitted under section 345, Code of Criminal Procedure, at the same time I order that the execution of Ram Chandra's sentence be suspended. He is on bail of Rs. 100 and he will remain on bail pending the order of the Hon'ble High Court.”

The parties were not represented.

\* Criminal Reference No. 961 of 1914.

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KNOX, J.—The learned Judge in making this reference appears to have overlooked the provisions of clause (7) of section 345 of the Code of Criminal Procedure. This forbids the composition of an offence being accepted except as provided by section 345.

Section 345 specially allows a case in which an appeal is pending to be opened to composition with the leave of the court before which the appeal is to be heard, but in it there is no mention of cases which come up on revision, and similarly there is no provision made in section 439 of the Code as to applying the powers granted in section 345 to cases in revision. The recommendation of the Judge, therefore, cannot be accepted. The accused person must submit to arrest and complete the sentence imposed upon him when he was convicted.

Let the record be returned.

*Before Mr. Justice Tudball.*

EMPEROR v. BISHAN PRASAD.\*

1914  
December, 18.

Act No. XLV of 1860 (Indian Penal Code), section 185—“Property”—*Exclusive right to sell drugs.*

*Held*, that a person who bid at an auction of the right to sell drugs within a certain area under a false name, and when the sale was confirmed in his favour, denied that he had ever made any bids at all, was rightly convicted of an offence under section 185 of the Indian Penal Code. *Queen v. Reazooddeen* (1) referred to.

IN this case the applicant Bishan Prasad attended an auction sale of the right to vend drugs within certain areas which was being held by the Collector and made bids; but he bid under a false name, and when finally his last bid was accepted by the Board of Revenue, he denied that he had ever made any bids at all. In respect of these acts he was prosecuted and convicted under section 185 of the Indian Penal Code. Against this conviction he applied in revision to the High Court.

Mr. Ross Alston and Babu Satya Chandra Mukerji, for the applicant.

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

\*Criminal Revision No. 1086 of 1914, from an order of G. C. Badhyar, Sessions Judge of Mainpuri, dated the 15th of August, 1914

(1) (1865) 3 W. R., Cr. R., 33.