

REVISIONAL CRIMINAL.

Before Mr. Justice Moti Sagar.

KANSHI RAM—Petitioner,
versus
THE CROWN—Respondent.

1922

Nov. 21.

Criminal Revision No. 635 of 1922.

Criminal Procedure Code, Act V of 1898, sections 517, 520—order for disposal of property regarding which offence committed—application by the accused acquitted on appeal for restoration of the property—whether any period of limitation applies to such an application.

One R. B. lost a large sum of money in currency notes and T. was prosecuted and convicted of criminal misappropriation. T. had informed the police that he had given notes to the value of Rs. 500 to K. R., the present petitioner, who was one of his creditors. K. R. gave up Rs. 400 in cash to the police. He was proceeded against and convicted by a Magistrate under section 411 of the Penal Code of the offence of dishonestly receiving stolen property. On appeal to the Sessions Judge the conviction was set aside, but no orders were passed with respect to the Rs. 400 which had been made over to the complainant by the order of the Magistrate on the conviction of T. in June 1920. In January 1922, about six months after his acquittal by the Sessions Judge, K. R. made an application to him for the restoration of this money. The learned Judge rejected the application on the ground that it was barred by limitation.

Held, that the petitioner's application was in no sense an application by way of appeal from the order of the Magistrate of June 1920 but an independent application to the Sessions Judge himself with a view to his taking action under sections 517 and 520, Criminal Procedure Code, and no period of limitation is prescribed for such an application.

The words "and make any further orders that may be just" in section 520 are intended to cover cases of this nature and to enable superior Courts to pass proper orders in cases where property has been erroneously disposed of under section 517.

Application for revision of the order of F. W. Skemp, Esquire, Sessions Judge, Karnal, dated the 11th February 1922, dismissing the application of the petitioner.

1922

KANSHI RAM
v.
THE CROWN.

ANANT RAM, for Raj Krishna, for Petitioner.

RAM LAL, for Government Advocate, for Respondent.

MOTI SAGAR J.—This is an application for revision of an order passed by the Sessions Judge of Karnal under section 520, Criminal Procedure Code.

The facts are briefly these :—

One Rahim Bakhsh, a *Lambardar*, lost a large sum of money in currency notes in January 1920. In May, the police received information that the notes were in the possession of one Thana, a *Kumhar* of Ramgarh. As a result of this information Thana was prosecuted and convicted of criminal misappropriation.

During the investigation Thana informed the police that he had given notes for Rs. 500 to Kanshi Ram, the present petitioner, who was one of his creditors. Kanshi Ram is alleged to have admitted his guilt before the police and to have given up Rs. 400 in cash. Proceedings were taken against him, and he was convicted by an Honorary Magistrate under section 411, Indian Penal Code, of the offence of dishonestly receiving stolen property knowing the same to be stolen property. On appeal to the Sessions Judge the conviction was set aside, and the petitioner was acquitted. No orders were passed by the trial Court or by the Sessions Judge with respect to Rs. 400 which had been recovered from him by the police in the course of the investigation and made over to the complainant by the order of the Magistrate on the conviction of Thana in June 1920.

In January 1922, about six months after his acquittal, Kanshi Ram made an application to the Sessions Judge for the restoration of this money. The Sessions Judge rejected the application on the ground that it was barred by limitation.

In my opinion the order of the learned Sessions Judge is erroneous and must be set aside. The application for the return of Rs. 400 made by the petitioner was in no sense an application by way of an appeal.

against the order of the trying Magistrate directing return of the money to the complainant but an independent application to the Sessions Judge himself with a view to his taking action under sections 517, and 520, Criminal Procedure Code. No period of limitation is prescribed for such an application and it can in my opinion be made within a reasonable time from the date on which an accused person is acquitted of the crime with which he is charged. It appears that the learned Sessions Judge has overlooked the provisions of section 520, Criminal Procedure Code, under which he is possessed of very wide powers to pass any orders that may be just. The words—

“and make any further orders that may be just.”

in section 520 are obviously intended to cover cases of this nature and to enable superior Courts to pass proper orders in cases where property has been erroneously disposed of under section 517, Criminal Procedure Code.

I would reverse the order of the Sessions Judge and return the case with the direction that he should hear the application and decide the same according to law after giving notice to the complainant.

A. N. C.

Revision accepted.

1922

KANSHI RAM
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