

1931

MUSSAMMAT
UMRAO BIBI
v.
RAM KISHEN.

TER CHAND J.

For the foregoing reasons we are unable to certify that the case fulfils the requirements of the law justifying the grant of the required certificate. The petition fails and is dismissed with costs.

N. F. E.

*Petition dismissed.***REVISIONAL CRIMINAL.***Before Johnstone J.*

THE CROWN, Petitioner

versus

JAHANGIR CHAND. Respondent.

1931

April 17.

Criminal Revision No. 1466 of 1930.

Criminal Procedure Code, Act V of 1898, section 406 (as amended by Act XVIII of 1923) proviso—Government Notification—Order of security passed by Additional District Magistrate, Gujranwala, under sections 108, 118—Appeal—whether lies to District Magistrate or Court of Session.

Held, that as the Local Government has made use of the proviso to section 406, Criminal Procedure Code (as amended by Act XVIII of 1923) and in its Notification No. 28348 dated 3rd December 1923 included the District of Gujranwala, an appeal from an order made by the Additional District Magistrate of Gujranwala under section 118 of the Code lies to the District Magistrate and not to the Court of Session.

Mahendra Bhumij v. Emperor (1), referred to.

Application for revision of the order of Lala Jaswant Rai Taneja, Sessions Judge, Gujranwala, dated the 22nd October 1930, reversing that of Sardar Bishen Singh, Additional District Magistrate, Gujranwala, dated the 1st July 1930, and remanding the case for hearing of defence evidence.

CARDEN-NOAD, Government Advocate, for Petitioner.

BISHEN NATH, for Respondent.

JOHNSTONE J.—This judgment will dispose of criminal revisions No. 1466 of 1930 and No. 22 of 1931, filed by the Government Advocate against two appellate judgments of the learned Sessions Judge of Gujranwala. The respondents were in each case bound over by the Additional District Magistrate under section 118, Criminal Procedure Code, to give security in respect of proceedings taken against them under section 108, Criminal Procedure Code. Appeals were instituted in the Court of the Sessions Judge who accepted one appeal and cancelled the security order; in the other case he accepted the appeal and remanded the case for the hearing of defence evidence.

The petitions preferred by the Crown are founded on the contention that the Sessions Judge had no jurisdiction to hear the appeals.

Now, under section 406, Criminal Procedure Code, as it reads since the amending Act of 1923, there is a proviso by which the Local Government may direct that in any specified district appeals from orders under section 108, Criminal Procedure Code, made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate. In Notification No. 28348, dated 3rd December 1923, the Punjab Government made use of the aforesaid proviso and in the list attached to the Notification included the district of Gujranwala. It was held in *Mahendra Bhumii v. Emperor* (1) that an appeal under section 406, Criminal Procedure Code, from the order of an Additional District Magistrate lies to the

1931

THE CROWN

v.

JAHANGIR

CHAND.

JOHNSTONE J.

1931

THE CROWN

v.

JAHANGIR
CHAND.

JOHNSTONE J.

District Magistrate. This decision was made in 1921, before the amending Act, but its principle is obviously applicable to cases decided after the amending Act, and I hold, therefore, that the Sessions Judge had no jurisdiction to hear the two appeals referred to above.

I accordingly accept the two petitions for revision and, setting aside the judgments of the Sessions Judge, direct that the appeals from the orders passed by the Additional District Magistrate be heard by the District Magistrate.

A. N. C.

*Revisions accepted.***APPELLATE CIVIL.***Before Tek Chand and Johnstone JJ.*

COURT OF WARDS, SHEIKHUPURA

(DEFENDANT) Appellant

versus

GOPAL SINGH AND ANOTHER (PLAINTIFFS)

Respondents.

Civil Appeal No. 1325 of 1930.

Principal and Agent—Power of Attorney—authorising Agent to conduct litigation and engage Pleader—whether includes appeals.

The power of attorney in question authorised the Agent to “conduct litigation” and to engage a pleader for conducting the case, and did not expressly restrict the exercise of such power to the trial Court.

Held, that the terms of the document were wide enough to include authority to appoint a pleader for the purpose of instituting an appeal.

Dyal v. Hirde Ram (1), *Champa Lal-Madho Lal v. Banarsi Dass* (2), and *Bishen Singh v. Karam Ilahi* (3), followed.

Bishna v. Mst. Rattani (4), distinguished.

(1) (1915) 29 I. C. 895.

(3) (1931) 32 P. L. R. 7.

(2) (1927) 99 I. C. 690.

(4) 28 P. L. R. 1912.

1931

April 22.