

1944

Nov. 21.

PURSHOTTAM LAL JAITLEY

v.

THE KING EMPEROR.

[SIR PATRICK SPENS C.J., SIR SRINIVASA VARADACHARIAR
and SIR MUHAMMAD ZAFRULLA KHAN JJ.]

Government of India Act, 1935, s. 210 (2)—Meaning of expression “any contempt of Court”—Power of High Court—Jurisdiction of Federal Court.

The expression “any contempt of Court” in s. 210 (2) of the Government of India Act, 1935, means “any act amounting to contempt of this Court” and not “an act amounting to contempt of any Court”.

High Courts in India have power to deal with contempt of the High Courts and of any Court subordinate to them. Section 210 (2) does not confer any concurrent jurisdiction in such matters on the Federal Court.

Gaubha v. The Hon'ble The Chief Justice and Judges of the Lahore High Court⁽¹⁾ applied.

PETITION.

This was an application, purporting to invoke alleged extraordinary original jurisdiction of the Federal Court under s. 210 (2) of the Government of India Act, 1935, and praying that the Federal Court should themselves deal directly with an alleged contempt of a Civil Court subordinate to a High Court. It was originally heard by the Chief Justice sitting as a Judge in Chambers on appeal from an order of the Assistant Registrar, exercising the powers of the Registrar, refusing to register the application. The Judge in Chambers dismissed the appeal with costs. The petitioner applied for a reconsideration by the Full Court of this Order.

Bhulabhai Desai (K. S. Sankara Aiyar with him) for the Petitioner.

Sir Brojendra Mitter, Advocate-General of India, and Dr. Narain Prasad Asthana, Advocate-General of the United Provinces, (Laxmi Saran with them) for the Opposite Party.

ORDER

BY THE COURT.—It has been contended that this application is maintainable under s. 210 (2) of the:

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Constitution Act. But the application does not allege any contempt of this Court. The expression "any contempt of Court" in that provision must be held to mean "any act amounting to contempt of this Court". This was the view expressed in *Gaubá's* case ⁽¹⁾ and we have been shown no reason for departing from that view. Under the Indian law the High Courts have power to deal with contempt of any Court subordinate to them as well as with contempt of the High Courts. It could not have been intended to confer on the Federal Court a *concurrent* jurisdiction in such matters. The wider construction may conceivably lead to conflicting judgments and to other anomalous consequences.

The application is dismissed.

Petition dismissed.

Agent for the Petitioner: *B. Banerji.*

Agent for the Opposite Party: *Rajinder Narain.*

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Purshottam Lal
Faiily
 v.
King Emperor.

M. L. BANNERJEE *v.* THE KING EMPEROR.

AND

J. C. BHATTACHARJEE *v.* THE KING EMPEROR.

[SIR PATRICK SPENS C.J., SIR SRINIVASA VARADACHARIAR
 and SIR MUHAMMAD ZAFRULLA KHAN JJ.]

Government of India Act, 1935, ss. 240, 241—Criminal Procedure Code (Act V of 1898), s. 197—Indian Penal Code (Act XLV of 1860), ss. 34, 161—Railway servant holding Emergency Commission—Prosecution for receiving illegal gratification—Sanction of Governor-General, whether necessary—"Some higher authority", meaning of.

The expression "some higher authority" in s. 197 of the Criminal Procedure Code refers to the Central Government, the Governor-General and the Secretary of State. It cannot be construed as meaning "any officer of the Central Government".

Where a railway Goods and Yard Supervisor who had been granted an Emergency Commission and a Shed Inspector who had been made a Warrant Officer were prosecuted for an offence under s. 161 read with s. 34 of the Indian Penal Code and it was contended on their behalf that they were public servants who were

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