

## Indra Jit Singh vs Ram Pal Singh on 6 July, 1950

**Equivalent citations: AIR1951ALL371, AIR 1951 ALLAHABAD 371**

ORDER

Misra, J.

1. This is a criminal revision in a pending case which was filed by Ram Pal Singh, opposite party, against the applicant in the Court of the Sub-Divisional Magistrate, Hasanganj, on 17th March 1949. The aforesaid Magistrate called for a police report but after the receipt of it he transferred the case to the Judicial Magistrate, Hasanganj, Shri Jagat Bahadur Srivastava, on 5th May 1949. This was because of the separation of executive and judicial functions in the district of Unnao, Mr. Srivastava was also empowered to transfer cases and by his order dated 6th May 1949, he entrusted the matter to the Railway Magistrate, Shri Devi Prasad Misra. When the case reached the second transferee Court, Indra Jit Singh applied for its re-transfer to the Court of Mr. Srivastava on the ground that a transfer of a transferred case was not possible under the Code, if cognizance had already been taken of it by the first transferee Court. Mr. Devi Pershad Misra rejected the application and the applicant's efforts to get a revision of the order at the hands of the learned Sessions Judge of Unnao also failed. He has now come up to this Court under Section 435, Criminal P. C.

2. I have carefully considered the arguments advanced on behalf of the applicant, but I can find no legitimate ground for acceding to his request. According to Section 192, Criminal P. C., a Magistrate of the first class, who is empowered to transfer a case for enquiry or trial to any other competent Magistrate in his district, may do so, provided that he has taken cognizance of the case. There can be no doubt that a transferee Magistrate has no power to transfer the case for disposal to any other Magistrate. The reason is that the transferee Magistrate cannot in such case be said to have taken cognizance of the case. The effect, however, of such a transfer is not to render the proceedings in the Court of the third Magistrate illegal. The order is only irregular and is cured by the provisions of Section 529 (f), Criminal P. C. It is urged on behalf of the applicant that since the trial of the case is still going on, the irregularity can and ought to be rectified. I am unable to agree that the re-transfer is necessary. The irregularity has not occasioned any prejudice to the applicant and obviously it is immaterial from his point of view whether the case is tried by one Magistrate or another.

3. The application has no substance and it is accordingly dismissed. Civil Miscellaneous Application No. 88 of 1950 is for stay of proceedings. The revision having failed, this application also fails and is rejected. The interim order dated 17th March 1950, is vacated.