

Ram Pratap Singh vs Suraj Pal Singh on 5 October, 1953

Equivalent citations: AIR1954ALL185

ORDER

Randhir Singh, J.

1. This is an application in revision, against an order passed by the Addl. Sessions-Judge of Pratapgarh under Section 436, Criminal P. C. directing further inquiry in a case in which the applicant was discharged by a Magistrate first class.

2. It appears that a complaint under Sections. 408/477/477A was instituted against the applicant by the opposite party who was the zildar of Raja Ajit Prasad Singh of Partabgarh. The complaint was that the applicant had realised sums, of money on behalf of the zamindar but had not accounted for them and had committed criminal breach of trust. The case was heard, by a Magistrate and as many as 13 witnesses were examined. After these witnesses had been examined the Magistrate passed an order that no other witness would be produced and fixed the case for recording the statement of the accused. The accused was examined on 12-9-1951 and the case was adjourned for hearing and arguments.

A part of the arguments was heard on 24-9-1951 and the case was adjourned once again for hearing the remaining part of the arguments to 28-9-1951. It was then contended on behalf of the applicant that no case had been made out & the case was then fixed for the 25th October, for hearing arguments on that point. The case was then adjourned several times and ultimately was transferred to the file of the Sub-Divisional Magistrate. The Sub-Divisional Magistrate also passed on the case after it had remained on his own file for about six months to the Judicial Officer II for disposal. The Judicial Officer then passed an order discharging the accused. An application had also been made in the meantime by the accused that he wanted a de novo trial. No order on this application was also passed by the Judicial Officer before he discharged the accused.

3. The complainant then went in revision to the Sessions Judge who, after considering the evidence on record, set aside the order of discharge and ordered further inquiry. It is against this last order of the Sessions Judge that the applicant has come up in revision.

4. A Sessions Judge is perfectly competent to pass an order setting aside an order of discharge under Section 436, Criminal P. C. and his powers are very wide in this matter. If once a Sessions Judge has, after considering the evidence on record, come to the conclusion that the order of discharge should be set aside and further inquiry should be made, the High Court would be loath to interfere with such an order unless there are compelling reasons for so doing.

In the present case the learned Counsel for the applicant has not been able to show that the order passed by the Sessions Judge was an impossible order or was perverse or even palpably improper. The mere fact that another Judge could have taken a different view would By itself be no ground for setting aside the order of the Sessions Judge under Section 436, Criminal P. C. I, therefore, see no force in this application for revision. The application is dismissed.