

Bal Kishun Vs. Sipahi Lal and ors.

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Court : Allahabad

Decided On : May-13-1914

Reported in : 25Ind.Cas.336

Judge : Knox, J.

Appellant : Bal Kishun

Respondent : Sipahi Lal and ors.

Judgement :

Knox, J.

1. The case was one in which the offence charged was an offence under Section 323 of the Indian Penal Code. It was transferred from one Court to another until it had come under the cognizance of no less than four different Courts, and even now it does not appear clear under what order the case passed from one to another of these several Courts. There appears to be a custom in Pilibhit under which all cases entrusted to a Bench of Magistrates are put before the Senior Honorary Magistrate in order that he may make a proper distribution of the work, and the authority for this practice is based upon Section 17 of the Code of Criminal Procedure. Section 17 empowers District Magistrate to make rules or give special orders connected with the Code as to the distribution of work among such Magistrates and Benches. Now distribution of work is one thing, calling up a case from the Court to which it is transferred for trial is quite different and I cannot find that the Code anywhere empowers the District Magistrate to pass on his powers, of calling up cases from subordinate Courts and re-distributing them. Such a practice even if governed by a special order, would not appear to be consistent with the Code and the mischief from such a practice appears when a simple case of this kind is handed about from Court to Court.

2. The distribution of 'business is, so far as I can ascertain, confined to District Magistrates and cannot be exercised by a Magistrate in charge of a Sub-Division.

3. The order of the Magistrate directing that the Senior Honorary Magistrate should distribute work among the other Honorary Magistrates is an order ultra vires and some other arrangement for distribution of work than this should be made; otherwise there is a risk of a case transferred by a Senior Honorary Magistrate being declared null and void ab initio, being a trial without jurisdiction. Let the record be returned.