

Naqi Ahmad and Another Vs Emperor

Court: Allahabad High Court

Date of Decision: Nov. 22, 1912

Acts Referred: Criminal Procedure Code, 1898 (CrPC) â€” Section 345, 439

Citation: 18 Ind. Cas. 270

Hon'ble Judges: Tudball, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Tudball, J.

The point I find is covered by the decision in Ram Piyari v. King-Emperor 32 A. 153; 7 A.L.J. 103; 5 Ind. Cas. 696; 11 Cri.

L.J. 203. Personally, I very much doubt the correctness of this decision as the power of an Appellate Court to grant sanction to compromise is

given to an Appellate Court under Clause 5 of Section 345, Criminal Procedure Code. This clause and Clause (d) of Section 423 were placed in

the Code at one and the same time, i.e., in 1898. The former was put in to meet the decision in Empress of India v. Thompson 2 A. 339.

2. The Code of Criminal Procedure, Section 439, sets forth the powers of a Court in revision. It only grants certain fixed powers and does not

mention Section 345 Clause (5). If the Appellate Court has power under Clause (d) of Section 423, to grant sanction to compromise, then Clause

(5) of Section 345 was unnecessary.

3. However, I am bound as a single Judge to abide by the ruling.

4. In the circumstances of the case, I think the sanction may with advantage be granted and I accordingly allow the compromise. The result will be

an acquittal.