

(1878) 04 AHC CK 0008

Allahabad High Court

Case No: None

Empress of India

APPELLANT

Vs

Megha

RESPONDENT

Date of Decision: April 2, 1878

Citation: (1875) ILR (All) 637

Hon'ble Judges: Turner, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Turner, J.

I am unable to support, the enhanced sentence passed by the Judge u/s 75. That section declares that if any person having been confided of any offence punishable under certain parts of the Indian Penal Code, shall be guilty of any offence punishable under those parts of the Code, he shall for every such subsequent offence be liable to the penalties therein declared. The section then prescribes enhanced punishments for particular offences committed after conviction of any one of such offences and not merely on a second conviction. In the present case it is shown that the appellant had, a few days before the trial of the present offence, been convicted, but it is not shown that he had been convicted of one of the offences mentioned in Section 75, nor that he had been convicted of any offence before the commission of the offence for which he has received an enhanced sentence u/s 75 of the Indian Penal Code. I must: quash the sentence passed u/s 379 and 75 of the Code, and as the appellant has received the full punishment that could be awarded for an offence falling at the same time under Sections 828 and 379 of the Indian Penal Code, it is unnecessary to pass a sentence u/s 379 of the Indian Penal Code. The conviction and sentence u/s 328 are affirmed and the appeal dismissed.