
(1876) 06 CAL CK 0008

Calcutta High Court

Case No: None

In Re: Pursooram
Borooah

Vs

APPELLANT

RESPONDENT

Date of Decision: June 10, 1876

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 222

Citation: (1877) ILR (Cal) 118

Hon'ble Judges: Mitter, J; Markby, J

Bench: Division Bench

Judgement

Mitter, J.

I am also of the same opinion. It seems to me that the effect of the Government Resolution, dated 1st of January 1873, was to confer upon Mr. Carnegy powers u/s 222 of the Criminal Procedure Code within the Subdivision of Jorehaut only. That being so, it cannot be said that he was "transferred to an equal or higher office" of the nature of that which he held in the district of Seebaugor; because, supposing he was transferred within the meaning of that Section and that he never vacated his appointment, the office to which he was transferred in the district of Kamroop is neither equal to nor higher than that he held in the district of Seebaugor. A reference to Sections 27 and 28 of the Code^[1] will show that the powers of a Magistrate of a division of a district are higher than those of a Magistrate of the first class not in charge of any subdivision. I am, therefore, of opinion that, under the Section (56) referred to above, Mr. Carnegy did not continue to exercise the same power which he had while in charge of the Subdivision of Jorehaut.

[1]

Powers which may be conferred on Magistrates of the 1st class.

[Section 27: In addition to the powers given to in Section twenty-six, a Magistrate of the first class invested with the following powers:

(a) By the Local Government-

- (1) Power to make over cases taken up on complaint, &c, to a Subordinate Magistrate. (Section 44.)
- (2) Power to hold inquests. (Section 135)
- (3) Power to entertain complaints of offences, and receive Police reports. (Section 141)
- (4) Power to entertain cases without complaint. (Section 142)
- (5) Power to issue process for person within jurisdiction who has committed offence outside Magistrate's local jurisdiction. (Section 157)
- (6) Power to try summarily. (Section 222)
- (7) Power to hear appeals from convictions by Magistrates of the 2nd class. (Section 266)
- (8) Power to sell suspicious or stolen property. (Section 417)
- (9) Power to issue order to prevent obstruction, &c. (Section 518)
- (10) Power to issue order prohibiting repetition of nuisance. (Section 520)
- (11) Power to make orders, &c., in local nuisance cases. (Section 521)

(b) By the Magistrate of the District-

- (1) Power to hold inquests. (Section 135).
- (2) Power to entertain complaints of offences, and receive Police reports. (Section 141)
- (3) Power to issue order to prevent obstruction, &c. (Section 518)
- (4) Power to issue order prohibiting repetition of nuisance. (Section 520)

Section 28: Magistrates who, under the provisions of the Act, are Magistrates of Divisions of Districts, have all the powers given to Magistrates of the Districts, and, in addition, the following powers:

- (1) Power to make over cases to a Subordinate Magistrate. (Section 44)
- (2) Power to pass sentence on proceedings recorded by a Subordinate Magistrate. (Section 44)
- (3) Power to withdraw cases, but not appeals, and to try or refer. (Section 46)
- (4) Power to hold inquests, (Section 47)
- (5) Power to entertain complaints of, offences, and receive Police reports. (Section 141)
- (6) Power to entertain cases without complaint. (Section 142)
- (7) Power to issue process for person within jurisdiction who has committed offence outside Magistrate's local jurisdiction. (Section 157)
- (8) Power to sell suspicious or stolen property. (Section 417)
- (9) Power to sell suspicious or stolen property. (Section 417)
- (10) Power to issue order prohibiting repetition of nuisance. (Section 520)
- (11) Power to make orders, in local nuisance cases. (Section 521)

Provided that, if a Magistrate of a Division of a District exercises the powers

Magistrate of the second class, he shall not have power to demand security good behaviour.]