

(1923) 11 BOM CK 0012

Bombay High Court

Case No: None

Emperor

APPELLANT

Vs

Rustam and Randhir
Singh

RESPONDENT

Date of Decision: Nov. 13, 1923

Citation: (1924) 26 BOMLR 692

Hon'ble Judges: Viscount Haldane, J; Lawrence Jenkins, J; John Edge, J; Dunedin, J; Carson, J

Bench: Full Bench

Judgement

L.C. Dunedin, J.

Mr. Dunne, I should like to say this, if the President does not object to ray saying it. I have now, since I have been here a good long time, sat in a great many of these cases, and, I may be wrong, but I do not remember any attempt so glaringly made, as in these two cases of yours, to bring up a question of mere evidence. Of course, I can quite understand that a man who is going to be hanged clings to any straw, and I can still more understand that you only do your duty in putting forward what you have done; but I do think that it ought to be very clearly understood in India that there is not a chance of our turning ourselves into a mere Court of Criminal Appeal, and we could not take up these two cases which we have seen today without turning ourselves into a Court of Criminal Appeal.

2. Mr. Dunne. No, my Lord. The difficulty, if I may say so here, is one that one keenly feels oneself. You may be perfectly satisfied, in these cases, my Lord that when the papers first came the solicitors in this case sent out word to say that the cases were hopeless. They went before counsel; counsel said that they were hopeless, and that went out to India. Ultimately, the matter came at the last stage here, for the purpose of an application, and upon that, express information was given to the clients in India that it was perfectly hopeless to apply here, and in spite of that, my Lords, the instructions came back to put the matter before your Lordships. What is one to do in the face of that

Viscount Haldane, J.

3. We are dealing with the East. It is very desirable that what Lord Dunedin has said should be well understood all over India. As for preventing people from appealing to the King-Emperor, we are dealing with the East, and they have a constitutional right to present their petitions for leave to appeal and get us to dispose of them; but it is an idle form when it is a question of evidence. The sooner they understand, the better.

4. Mr. Dunne. I do not know if the matter can be reported, or whether your Lordships can send a communication to the Courts in India; but I am afraid, however much it is done, the last straw they will attempt to clutch at, and we are so far away that no personal influence of anybody advising them can be brought to bear upon them.

Viscount Haldane, J.

5. We are dealing with the East. The fact that they have a constitutional right of appeal to the King-Emperor is enough for them, without going into the merits.