

ALLAHABAD HIGH COURT

Emperor

Vs

Murli Dhar

(Piggott , J.)

28.01.1916

JUDGMENT

Piggott, J.

1. Murli Dhar and Ganga Saran have been convicted of an offence under Section 228 of the Indian Penal Code in consequence of certain expressions used by them, while occupying the position of accused persons, in the course of a petition presented to a Court. The immediate object of this petition was to obtain an adjournment of the case on the ground that the persons accused were intending to apply for transfer of the proceedings to another Court. The petition was not happily worded, and as a matter of fact there was no obligation on the petitioners to explain to the Court at all the grounds on which they intended to apply for the transfer. The question, therefore, is whether it follows as a fair presumption from the wording of the petition that the intention of the persons presenting the same was to offer insult to the presiding officer of the Court. The learned Sessions Judge in affirming the conviction admits that his attention was called to the case of Queen-Empress v. Abdullah Khan A.W.N. (1898) 145 and has taken it upon himself to hold that that case is not of general application and that, if the same point were again raised before this Court, it would be differently decided. The learned Sessions Judge was not entitled to deal with a decision of this Court in this fashion. The present case is a much weaker one against the applicants than was the case of Abdullah Khan A.W.N. (1898) 145. I cannot say that, if I had been sitting as a Magistrate to try a gentleman known to be a personal friend of mine on a criminal charge, I should have considered myself insulted by the presentation of a petition in the language of that which has formed the basis of the present prosecution, though I might possibly have pointed out to the person responsible for the drafting that his object could be attained by a petition more courteously worded. I do not think this conviction can be sustained. I set it aside accordingly, acquit Murli Dhar and Ganga Saran of the offence charged and direct that the fine, if paid by them, should be refunded.

