

(1961) 12 AHC CK 0015
In the Allahabad High Court
Case No : Criminal Revision No. 598 of 1961

Asa Ram and Others

APPELLANT

Vs

Randhir Singh and Others

RESPONDENT

Date of Decision : 01-12-1961

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 146

Citation : AIR 1963 All 17 : (1963) CriLJ 28

Hon'ble Judges : W. Broome, J

Bench : Single Bench

Advocate : C.S. Saran, for the Appellant; B.C. Saxena, for the Respondent

Final Decision : Dismissed

Judgement

W. Broome, J.—This revision is directed against orders passed by the S. D. M. Sadar, Muzaffarnagar, in a case u/s 145 Cr. P. C. Since the learned Magistrate was unable to decide which of the parties had been in possession of the disputed land on the relevant date, he referred the matter to the Civil court u/s 146 Cr. P. C. and on receipt of the decision of the Munsif of Muzaffarnagar passed an order in favour of the opposite-parties in accordance with that decision or the civil court.

2. The contention advanced on behalf of the applicants is that u/s 146 the dispute ought not to have been referred to the Munsif but to the revenue court, as only a revenue court had jurisdiction to decide disputes of this nature about agricultural land; and in this connection reliance has been placed on the decision of a learned single Judge of the Rajasthan High Court in *The State Vs. Kr. Keshva Sen and Another*, in which it has been held that the words "civil court" used in Section 146 Cr. P. C. are used in a wide sense and include revenue courts as well. With due respect to the learned Judge who gave that decision, however, I find myself unable to accept this interpretation.

It is no doubt true that the words "civil court" are sometimes used in an

extended sense, but I can see no reason why in the context of Section 146 Cr. P. C. they should not be restricted to their usual meaning. Where the Legislature has wished to refer to revenue court in this Code it has done so specifically, as may be seen from a perusal of Sections 195, 476 and 480 Cr. P. C., which refer to "civil, revenue or criminal courts"; and it seems to me that if references u/s 146 were meant to be sent to revenue courts as well as to ordinary civil courts, the Legislature would have used the words "civil or revenue court." therein, instead of mentioning merely "civil court". The fact that revenue courts normally have jurisdiction in suits for the possession of agricultural land does not to my mind materially affect the construction to be placed on the wording of Section 146, for where that section refers to "a civil court of competent jurisdiction" the word "jurisdiction" should obviously be taken to refer to territorial jurisdiction and nothing more.

3. My conclusion therefore is that the present case was quite rightly referred u/s 146 Cr. P. C. to the Munsif for decision, and there is no legal flaw in the procedure adopted. This revision application is accordingly rejected, the stay order granted by this Court on 18-4-1961 being vacated.