

(1924) 07 BOM CK 0004

In the Bombay High Court

Case No : Criminal Application for Revision No. 80 of 1924

In Re: Gurunath Narayan Betgeri

Date of Decision : 01-07-1924

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 561A

Citation : AIR 1924 Bom 485 : (1924) 26 BOMLR 719

Hon'ble Judges : Lallubhai Shah, J;Fawcett, J

Bench : Division Bench

Judgement

Lallubhai Shah, Acting C.J.

1. The petitioner before us made an application to the Magistrate for the restoration of certain property which was attached u/s 88, Criminal Procedure Code. The facts relating to this attachment have been stated in the petition, and the case of the petitioner was that as he was absent from the village, he did not know anything about the attachment until he came back to the village about the time he made the application in 1923. u/s 89, Criminal Procedure Code, it is clear that the application for the restoration of property has to be made within two years from the date of the attachment. In the present case the attachment was so far back as 1918 and the present application was made in 1923. The learned Magistrate rejected the application having regard to the provisions of Section 89, Criminal Procedure Code. In appeal the learned Sessions Judge upheld that order.

2. In support of the application to this Court it is urged that we should exercise our inherent powers to secure the ends of justice u/s 561A, Criminal Procedure Code. We do not think that we could make any order which would conflict with the provisions of Section 89, Criminal Procedure Code, in the exercise of our inherent powers to which a reference has been made. The order made by the Magistrate appears to be correct. As the application has not been made within two years from the date of the attachment, the Court has no jurisdiction to make the order which the applicant wants for the restoration of the property.

3. It is clear that his proper remedy is to apply to Government at whose disposal

property is at present according to law. If the Government are satisfied that the allegations by the petitioner are correct and that the justice of the case requires that the property should be restored to him, the Government may allow a restoration of the property to the applicant; but we cannot help him, nor can we make any recommendation to the Government as to the merits of his application. We discharge the rule.