

(1936) 01 AHC CK 0008
In the Allahabad High Court

Moti Pansari

APPELLANT

Vs

Usman and Others

RESPONDENT

Date of Decision : 29-01-1936

Acts Referred:

Court Fees Act, 1870 — Section 17(19)

Citation : AIR 1936 All 318

Hon'ble Judges : Harries, J

Bench : Division Bench

Judgement

Harries, J.—This is an application in revision filed by one Moti Pansari praying that an order of acquittal passed by the Second Additional Sessions Judge of Gorakhpur, dated 2nd January 1935, be set aside and the opposite parties convicted and sentenced according to law. The application is not stamped, neither is the copy of the judgment filed with it. The office has reported that the application and copy of the judgment should be stamped; but Sir Charles Ross Alston on behalf of the applicant contends otherwise and relies on Section 19, Sub-section 17, Court-fees Act (Act 7 of 1870). Section 19 provides that nothing contained in the Act shall render certain documents chargeable with any fee and among the documents so exempted are documents mentioned in Sub-section 17, viz. petitions by prisoners or other persons in duress or under restraint of any Court or its officers.

2. The applicant Moti Pansari was convicted by this Court and sentenced to a term of imprisonment for an offence u/s 148, Penal Code, and was at the date of this application and is at the present moment in jail undergoing that term of imprisonment. It is therefore argued on his behalf that the present application comes within Sub-section 17 of Section 19, Court-fees Act, by reason of the fact that this is a petition by an applicant who is actually a prisoner. In my view this is not a petition by a prisoner, within the meaning of that phrase as used in Section 19, Sub-section 17, Court-fees Act. In my judgment Sub-section 17 of Section 19, Court-fees Act contemplates a petition by a prisoner, claiming some relief or

indulgence or right on behalf of himself in his capacity as a prisoner. Here the application does not concern the liberty, safety or rights of the prisoner himself. It is on the contrary an application affecting the rights and freedom of other persons not in custody. The prayer is that the opposite parties who are at liberty should be put in peril by setting aside the order acquitting them. The application is wholly unconnected with the applicant's condition or status as a prisoner and asks for no relief affecting him in his capacity as a prisoner. That being so this application does not fall within Sub-section 17 of Section 19, Court-fees Act, and therefore the application and the copy of the judgment are not exempted from stamp fees. In the result therefore I hold that both the application and the copy of the judgment must bear the appropriate stamp. Admit and issue notice to the opposite parties provided the Court-fee is paid.