
(1897) 12 AHC CK 0005
In the Allahabad High Court

Queen-Empress

APPELLANT

Vs

Fateh Bahadur

RESPONDENT

Date of Decision : 11-12-1897

Acts Referred:

Penal Code, 1860 (IPC) — Section 409

Citation : (1898) ILR (All) 181

Hon'ble Judges : John Edge, C.J;Burkitt, J

Bench : Division Bench

Final Decision : Allowed

Judgement

John Edge, C.J. and Burkitt, J.—A charge under the Indian Penal Code came on for investigation before the Cantonment Magistrate of Allahabad. The person charged had been a servant of the North-Western Provinces Club. He was charged with having committed the offence punishable u/s 409 of the Indian Penal Code in respect of moneys belonging to the Club. The Cantonment Magistrate was a member of the Club, and he referred the matter to the Court of the Sessions Judge of Allahabad for permission to proceed with the case. The Sessions Judge was also a member of the Club, and" held that as he was interested as a member of the Club he had no jurisdiction. In that he was wrong. There is nothing in Section 555 of the Code of Criminal Procedure to suggest that under these circumstances the Sessions Judge of Allahabad had not jurisdiction to grant permission to the Cantonment Magistrate to try the case or commit it for trial.

2. We set aside the order of the Sessions Judge of Allahabad and direct the present Sessions Judge of Allahabad to consider the reference from the Cantonment Magistrate, as he has jurisdiction to decide whether permission should or should not be given to try, or commit for trial, the accused.