

(1887) 05 AHC CK 0008
In the Allahabad High Court

Queen-Empress

APPELLANT

Vs

Gordon

RESPONDENT

Date of Decision : 21-05-1887

Acts Referred:

Citation : (1887) ILR (All) 525

Hon'ble Judges : Straight, J

Bench : Single Bench

Judgement

Straight, J.—Then directed the Clerk of the Crown to add a charge of fabricating false evidence u/s 193 of the Penal Code, with reference to the provisions of Section 227 of the Code of Criminal Procedure.

2. Mr. Howell, for the prisoner, objected that the Court had no power u/s 227 to add a fresh charge upon which the accused had not been committed for trial. All that the Court could do was to alter the existing charges: what it was proposed to do was not to "alter" the charges, but to leave them untouched, and to add another charge perfectly distinct from them. He cited *Queen-Empress v. Appa Subhana Mendre I. L. R. Bom. 200*.

3. The Public Prosecutor (Mr. Boss), for the Crown, contended, in reply, that the practice of the Court had always been, when such a course was necessary, to alter or add to the charge in the manner proposed, and that such a procedure was covered by the terms of Section 227 of the Criminal Procedure Code.

Straight, J.

4. Overruled the objection. His Lordship was not bound by the decision of the Bombay High Court in the case referred to, and the Court in that case was not unanimous. He agreed with the dissentient judgment of Mr. Justice SCOTT, and considered that the course he proposed to take was within the meaning of the words "alter any charge" used in Section 227 of the Code.

5. The charge u/s 193 of the Penal Code was then added. The prisoner pleaded

guilty to this charge. Upon the direction of the Court, the jury returned a verdict of not guilty upon the charges under Sections 467 and 471, and upon the charge u/s 193 convicted him on his plea of guilty. The Court sentenced him to ten months" rigorous imprisonment. See *The Queen v. Waris Ali* N.W.P. H.C. Rep. 187. The Code of Criminal Procedure then in force was Act XXV of 1861, Section 244 of which corresponding with Section 227 of the present Code.) provided that "it shall be competent to any Court before which a trial is held, at any stage of the trial to amend or alter the charge."