
(1997) 10 AHC CK 0073
In the Allahabad High Court
Case No : Criminal Revision No. 69 of 1996

Tej Dhari

APPELLANT

Vs

Durga Prasad

RESPONDENT

Date of Decision : 20-10-1997

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 147, 323, 452

Citation : (1997) 10 AHC CK 0073

Hon'ble Judges : J.C.Mishra, J

Final Decision : Allowed

Judgement

J.C. Misra, J.—Heard Sri S.A.N. Shah, learned Counsel for the revisionist and learned A.G. A. None appeared for the complainant even after the list being revised.

2. Xth Additional Munsif Magistrate, Kanpur vide order dated 25 884 had summoned the accused. The learned Magistrate found incriminating evidence against accused and, therefore rejecting final report summoned the accused under Sections 147, 452 and 323, I.P.C. The revisional Court set aside the order on the ground that the Magistrate had no jurisdiction to summon the accused, after submission of the final report. The view taken by the revisional court was that after submission of final report the Magistrate could not summon the accused without recording the additional evidence under Sections 200 and 202, Cr. P.C. The view taken by the revisional court is patently illegal. The settled view is that the Magistrate is empowered to summon the accused if from the evidence collected during investigation prima facie offence is made out. He is not bound by the conclusion drawn by the Investigating Officer. The order passed by the revisional court is illegal and deserves to be set aside.

3. The revision is allowed. The order dated 28th October, 1985 passed by VIth Additional Sessions Judge, Kanpur Dehat in Criminal Revision No, 87 of 1984, Durga Prasad and others v. State and others is set aside. The stay stands and is

hereby vacated, The learned Magistrate shall proceed with the case in accordance with law. Revision allowed.