

Emperor Vs. Babilal Balwant

Emperor Vs. Babilal Balwant

SooperKanoon Citation : sooperkanoon.com/337940

Court : Mumbai

Decided On : Sep-30-1915

Reported in : AIR1915Bom123; (1915)17BOMLR1078

Judge : Batchelor and ;Hayward, JJ.

Appeal No. : Criminal Application for Revision No. 202 of 1915

Appellant : Emperor

Respondent : Babilal Balwant

Judgement :

1. In this case the learned Magistrate in examining two of the accused persons, while they were still in the position of accused persons and had obtained no order of discharge or acquittal, committed an irregularity. His action is not to be justified under Section 10 of the Bombay Prevention of Gambling Act. The statements of these two accused persons were, therefore, inadmissible in evidence, and if those statements are discarded from the record, there is nothing in evidence which, despite the presumptions arising under Sections 5 and 7 of the Act, would warrant the conviction of this applicant. For those presumptions in this particular case are weakened by the circumstance that the gambling was taking place not in a close room, but in an open shed.

2. The rule, therefore, must be made absolute, the fine, if paid, being refunded.

