

In Re: Nagji Dula

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Court : Mumbai

Decided On : Jan-16-1924

Reported in : AIR1924Bom320; (1924)ILR48Bom358; 81Ind.Cas.614

Judge : Norman Macleod, C.J. and ;Lilubhai Shah, J.

Appellant : In Re: Nagji Dula

Judgement :

1. Three persons were charged before the Honorary First Class Magistrate of Amod with having committed an offence under Section 324 and Section 324 read with Section 114, Indian Penal Code. The first accused was discharged. The second and third accused voluntarily confessed the offence and asked for mercy. The Magistrate said: 'Considering the facts mentioned above and that both the accused have voluntarily confessed the offence, I am inclined to be lenient with them. Besides the circumstances of the case also require me to be carefully moderate in passing the punishment.' Accused No. 2 was accordingly sentenced to pay a fine of Rs. 40, and in default to suffer simple imprisonment for one month. Accused No. 3 was sentenced to pay a fine of Rs. 15 and in default to be imprisoned for one week.

2. The complainant applies to this Court under Section 439, Criminal Procedure Code, that the sentences should be enhanced. Speaking for myself, I do not think that according to any view we may take of our powers under the Code of Criminal Procedure, a private party is entitled to come to this Court and ask it to enhance a

sentence passed by a Subordinate Court. A District Magistrate or a Sessions Judge or the Government Pleader may draw our attention to a sentence with a view to its being enhanced. We may also of our own motion send for the record and take action with a like object. But it is not for a private complainant to take any such action. If he considers a sentence unduly lenient he should draw the attention of Government to the fact. We think it should be definitely ruled as a matter of practice that no such application by a complainant to enhance a sentence should be entertained. The Rule is discharged.

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