

**Emperor Vs. Shiboo**

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**SooperKanoon Citation :** [sooperkanoon.com/448062](http://sooperkanoon.com/448062)

**Court :** Allahabad

**Decided On :** Jun-29-1922

**Reported in :** (1923)ILR45All17

**Judge :** Lindsay, J.

**Appellant :** Emperor

**Respondent :** Shiboo

**Judgement :**

**Lindsay, J.**

1. I think this application must be allowed. The applicant is a young boy named Shiboo, who was convicted on a charge tinder Section 323 of the Indian Penal Code and sentenced to receive 10 stripes. At the same time his father was convicted of a similar offence and received an appealable sentence.

2. The father appealed and when the case came up before the learned Sessions Judge the parties to the case compounded. The learned Judge made an order for composition.

3. The boy had no right of appeal and the learned Sessions Judge was therefore asked to deal with the case in revision. He came to the conclusion that it was not possible for him to deal with the matter in this way and he refers to a ruling of this

Court--Emperor v. Husain Khan (1016) I.L.R. 39 All. 293. That ruling, however, does not seem to me to affect the matter which I have now before me.

4. Section 439 authorizes the High Court to exercise any of the powers conferred on a court of appeal, and if a court of appeal can allow the composition of an offence, it follows that the High Court can allow the same in revision too. There is nothing therefore to prevent the parties from compounding the offence. On the merits the learned Judge was obviously of the opinion that the case ought to be compromised but he thought that he had no authority in law to permit a composition.

5. In this connection I may refer the learned Judge to the ruling in Emperor v. Ram Piyari (1909) I.L.R. 32 All. 153. This is a fit case in which composition ought to be allowed as the parties have made up their differences. I allow the application and set aside the conviction and sentence on Shiboo, minor.

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