

**Brij Kishore Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/460636](http://sooperkanoon.com/460636)

**Court :** Allahabad

**Decided On :** Oct-26-1964

**Reported in :** AIR1965All482; 1965CriLJ451a

**Judge :** H.C.P. Tripathi, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 255 and 263

**Appeal No. :** Criminal Revn. No. 1412 of 1963

**Appellant :** Brij Kishore

**Respondent :** The State

**Advocate for Def. :** Addl. Govt. Adv.

**Advocate for Pet/Ap. :** S.N. Chaturvedi and ;R.K. Khanna, Adv.

**Disposition :** Revision allowed

**Judgement :**

ORDER

**H.C.P. Tripathi, J.**

1. This revision is directed against the order of the learned Sessions Judge of Bijnor affirming the applicant's conviction and sentence of Rs. 50/- as lecorded by a Magistrate, First Class.

2. The applicant was arrested on 11-7-63 at about 5 p. m. by Sri K. C. Shartna, Sub-Inspector, Kotwali, Bijnor, and, on his search a parcha of Satta on which seven names were endorsed and a pencil, were alleged to have been recovered. According to the prosecution he was indulging in Satta gambling on a public way and was therefore sent up for trial. He was produced before a Magistrate, First Class immediately after his arrest and was examined by him. It is said that he pleaded guilty and the Magistrate relying on his plea convicted him. The applicant was tried summarily. The learned Magistrate did not record any evidence and has only filled up a form as prescribed under Section 263, Criminal P. C. This shows that the offence was alleged to have been committed on 11-7-1963, the accused was examined on the same day and according to the Magistrate he admitted the guilt. The plea of guilty alleged to have been made by the applicant has not been recorded in his own words. It is settled law that where an accused is convicted on the basis of his own statement his plea should be recorded in his own words unless there are reasons for dispensing with that safeguard.

3. There is no doubt that the accused was tried in hot haste and was not allowed sufficient opportunity to think of his defence. The record maintained of the trial is too perfunctory to give any idea as to whether the accused understood the charge which was levelled against him and then consciously pleaded guilty to that charge. In the circumstances the conviction of the applicant cannot be maintained.

4. The revision is allowed and the conviction and sentence of the applicant are set aside. The fine, if paid, shall be refunded.

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