

Emperor Vs. Bidha

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Court : Allahabad

Decided On : Oct-31-1923

Reported in : AIR1924All319; (1924)ILR46All114; 81Ind.Cas.142

Judge : Sulaiman, J.

Appellant : Emperor

Respondent : Bidha

Judgement :

Sulaiman, J.

1. In this case the accused was convicted under Section 22 of the Criminal Tribes Act (No. III of 1911) and was sentenced to undergo rigorous imprisonment for one year including one month's solitary confinement.

2. The learned District Magistrate has referred the case to the High Court with a recommendation that so much of the sentence as relates to the solitary confinement be set aside. This reference must be accepted.

3. Solitary confinements are imposed under Section 73 of the Indian Penal Code. Under that section, whenever any person is convicted of an offence for which, under that Code, the court has power to sentence him to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary

confinement for any portion of the imprisonment to which he has been sentenced. Under that section there is no authority for imposing a sentence of solitary confinement when a person is convicted under some other Criminal Act. The Criminal Tribes Act (No. III of 1911) makes no provision for imposing a sentence of solitary confinement on persons convicted under that Act. I am, therefore, of opinion that the Magistrate had no jurisdiction to order that any part of the sentence on the accused should be one of solitary confinement. I accordingly set aside that part of the order. Let the record be returned.

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