SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Ram Chand and ors. Vs. Emperor

Ram Chand and ors. Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/467944

Court : Allahabad

Decided On : Sep-02-1932

Reported in : AIR1933All114

Appellant : Ram Chand and ors.

Respondent : Emperor

Judgement :

Pullan, J.

1. This is an appeal by three persons Ram Chand, Reoti and Munshi, who have been convicted of an offence under Section 380, I.P.C., and each sentenced to three years' rigorous imprisonment. They had been charged originally under Section 395, I.P.C., and when their appeals were read by a Judge of this Court notice was issued to all three appellants to show cause why their sentence should not be enhanced. This is very clear case of dacoit. In the first report it was said that there were 14 or 15 dacoits, and the approver, whose evidence has been belived by the Judge, says there were 12. They entered the house in the night and they took ornaments and a considerable sum of money. It is said that they took Rs. 2,000 in cash and ornaments worth Rs. 164. There is nothing in the method in which the offence was committed to distinguish it from an ordinary dacoity, and the evidence against all these persons is particularly clear. Munshi himself made a confession which he retracted, and he is also mentioned by the approver whose

name is also Munshi. He was identified by several witnesses. The other two appellants were mentioned both by the approver and by Munshi Kachhi in his retracted confession, and stolen ornaments were found in the possession of them.

2. The Judge has laid down a proposition of law which cannot possibly be accepted. He has said:

Probably the inmates did not resist the dacoits seeing their large number and so peacefully and calmly without using any force or show of force the dacoits acquired the property, and so the offence comes technically within the purview of Section 380, I.P.C.

3. If this were so any dacoity in which no resistance is offered and no violence required will cease to be a dacoity and should be treated as a theft. This decision of the learned Judge shows that he has entirely failed to under stand a section of the Indian Penal Code which in the district of Mainpuri, where he is the Sessions Judge, he must have occasion to use almost daily. We cannot alter the section under which he has chosen to' convict these persons, and no doubt they arc guilty under that section as in the course of committing the dacoity they also committed theft from a building. All that we can do is to emphasize our opinion that the view taken by the learned Judge is entirely wrong, to dismiss the appeal and to enhance the sentence under Section 380, I.P.C., to five years' rigorous imprisonment in the case of each of the appellants.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com