

Emperor Vs. Mangat and ors.

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Court : Allahabad

Decided On : Mar-12-1920

Reported in : AIR1920All135; 57Ind.Cas.82

Judge : George Knox, J.

Appellant : Emperor

Respondent : Mangat and ors.

Judgement :

George Knox, J.

1. The learned Sessions Judge, after examining the record of the case of King Emperor v. Mangat and others tried by S. Ahmed Ali, a Magistrate of the first class, has found, that two opposing parties of a riot had been tried in one and the same trial. The learned Sessions Judge considers this is illegal as the two parties could have no common object and the trial, therefore, was bad. 'One party has appealed,' continues the learned Sessions Judge, 'and Under Section 423 of the Criminal Procedure Code, I have ordered them to be retried. The opposite party, Mangat, Sangat, Phemdi Pirbhu, and Sullar, have not appealed. In view of the ruling reported as Empress v. Jaimal A.W.N. (1883) 163. I report their case to the Hon'ble High Court for orders.' It is to be feared that the learned Sessions Judge has taken a too perfunctory view of the case. It is a mistake which often is made. Under Section 239, Criminal Procedure Code, when more persons than one are

accused of the same offence or of different offenses committed in the same transactions, they may be charged and tried together or separately as the Court thinks fit. The offence with which the accused were charged is, according to the learned Sessions Judge, the offence of rioting under Section 147, Indian Penal Code. Section 147 is itself no guide. We have to turn to Section 146, which lays down whenever force or violence is used by an unlawful assembly or by any member thereof in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. The common object is set out in Section 141 and may be, inter alia, to commit any mischief or criminal trespass or other offence or by means of criminal force or show of criminal force to enforce any right or supposed right. In the present case, as the learned Magistrate shows, the common object was to take possession of a piece of land. Each side laid claim to have a right in this land and they started with the intention of by means of criminal force taking possession of the property. It is true that party A wanted to take possession for party A and party B for party B, but the common object was to take possession of the property. The case quoted by the learned Sessions Judge does not show what was the object of the party of Jaimal and what the object of the party of Dhamru. It is to be presumed that the common object was not the same. But in the present case, so far as the record shows, the common object of both sides was the same, i.e., to take possession by force of the same property. Let the record be returned.