

Jarawar Singh and ors. Vs. the State

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Court : Allahabad

Decided On : Dec-11-1990

Reported in : 1991CriLJ1806

Judge : G.D. Dube, J.

Acts : Arms Act - Sections 25; [Indian Penal Code \(IPC\), 1860](#) - Sections 399 and 402

Appeal No. : C.A. No. 515 of 1979

Appellant : Jarawar Singh and ors.

Respondent : The State

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : S.P. Singh Roghav, Adv.

Disposition : Appeal allowed

Judgement :

G.D. Dube, J.

1. This appeal has arisen against the judgment and order of First Additional Sessions Judge. Bulandshahr, holding the appellants guilty of the offences punishable under Sections 399 and 402, I.P.C. Along with these appellants one

Man Singh was also convicted and sentenced of the offences Under Sections 399 and 402, I.P.C. He was also sentenced to one year's R.I. under Section 25, Arms Act. It transpires that all the five accused were tried in respect of an offence allegedly committed between 31st July and 1st of August, 1974 in the Dharamshala. There were five sessions trials. The convicted accused Man Singh had preferred Criminal Appeal No. 543 of 1979. The remaining had preferred present Criminal Appeal No. 515 of 1979.

2. It appears that Criminal Appeal No. 543 of 1979 was heard by Hon'ble O. P. Mehrotra, J. By his judgment dated 11-12-1986 Hon'ble Mehrotra, J. had allowed the appeal and set aside the conviction and sentence of appellant Man Singh, Hon'ble Mehrotra, J. had not believed the prosecution story and also held that the whole prosecution story was concocted. The evidence of the Police Officer produced by the prosecution was not at all believed. Consequently, Criminal Appeal No. 543 of 1979 had been allowed. The Office has reported that on account of error committed by an official of this Court, who has now retired, this appeal could not be connected with Criminal appeal No. 543 of 1979.

3. Even though the list has been revised, none has appeared for the appellants. I have heard learned A.G.A.

4. The principle of stare-decisis applies in this matter. The observations of Hon'ble O. P. Mehrotra, J. are binding in this case also. It is held that the fact regarding assembly of the appellants for the purposes of committing dacoity at the alleged date, time and place was not established.

5. In the result, the appeal succeeds and is allowed. The judgment of the lower Court is set aside. The appellants are acquitted for charges levelled against them. They are on bail. They need not surrender. Their bail bonds are cancelled and sureties discharged.