

**Jamaluddin and ors. Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/482345](http://sooperkanoon.com/482345)

**Court :** Allahabad

**Decided On :** Jun-14-1923

**Reported in :** AIR1924All164; 74Ind.Cas.716

**Judge :** Ryves, J.

**Appellant :** Jamaluddin and ors.

**Respondent :** Emperor

**Judgement :**

**Ryves, J.**

1. That a riot took place about sunset in the village of Rawatpur on the 22nd of January last in which one Abid Ali unfortunately was fatally injured is established beyond doubt. Ten men were sent up for trial under Sections 147 and 304 of the Indian Penal Code to the Court of Session at Shahjahanpur. The learned Judge has convicted three of them and these have appealed. The learned Judge has come to the definite conclusion that the evidence on both sides is wholly unreliable. He says: 'as the witnesses on both sides are unreliable there remains only the reports on which to base any definite conclusion.' This is not a legitimate use of a First Information Report. Such reports are not substantive evidence of the facts recorded in them and a conviction cannot be based on a report. They can be used to corroborate the witnesses who made them and are of value as showing that they told the same story at the first possible occasion. If they told a different

story in Court, the First Report can be used to contradict them or discredit their testimony. But it is not legitimate for a Court when witnesses tell a different story in the witness-box and contradict the report made by them to discard the evidence given on oath and to rely on the report. The result probably is that there has been a miscarriage of justice in this case, but that is not the fault of the Court but of the complainants themselves and their witnesses. If they choose to suppress the real facts and give false evidence in order to implicate their enemies, the only result is that persons who are probably guilty have to, be acquitted. I allow the appeal, set aside the conviction and sentence and direct the appellants to be released.

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