

Damri Vs. Emperor

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Court : Allahabad

Decided On : Mar-31-1924

Reported in : 83Ind.Cas.711

Judge : Ryves, J.

Appellant : Damri

Respondent : Emperor

Judgement :

Ryves, J.

1. There was a bad dacoity committed in the Fatehpur District, in the course of which two men were killed and several other persons were seriously injured and property including a quantity of utensils were carried away. The fact that the dacoity was attended with unusual violence is really not relevant in this case. Damri has been charged under Section 216-A of the Indian Penal Code with having harboured the dacoits. It has been found that the dacoits took with them a pony belonging to Damri to the scene of the dacoity, and loaded it with some of the utensils which were looted. The object apparently with which this pony was taken was to help them in carrying away their booty. If this was done with the consent of Damri, he could certainly have been tried and convicted of abetment of the dacoity. He however, has not been tried under that charge, but for having harboured the dacoits. Having regard to the definition of 'harbour' given in Section

216-B, it seems to me that the case does not come within the section. The pony was not lent to the dacoits with any of the objects comprised in the definition of 'harbour.' It was lent to them merely to facilitate them in removing the loot. The conviction, therefore, cannot stand. Damri has already been convicted in Appeal No. 151 for being in possession of an utensil stolen in this dacoity, and has been sentenced to five years' rigorous imprisonment in that case. Under these circumstances I merely allow this appeal, and direct that so far as the charge under Section 216-A is concerned, he be released, but he has still to serve the term which he is undergoing on a charge under Section 412 of the Indian Penal Code.

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