

**Ram Singh Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/485301](http://sooperkanoon.com/485301)

**Court :** Allahabad

**Decided On :** Jun-29-1922

**Reported in :** AIR1923All34; 85Ind.Cas.44

**Judge :** Lindsay, J.

**Appellant :** Ram Singh

**Respondent :** Emperor

**Judgement :**

**Lindsay, J.**

1. It appears that the applicant Ram Singh was convicted in the Court of a Magistrate of an offence under Section 224 of the Indian Penal Code, that is to say, the offence of escaping from lawful custody.

2. The finding of the learned Sessions Judge in appeal is that Earn Singh was not in lawful custody. He has, therefore, acquitted him of the offence under Section 224 of the Indian Penal Code, but has convicted him under Section 323 of the Indian Penal Code of the offence of assaulting the constable who arrested him.

3. The story which was told regarding this arrest was that the constable had been deputed by the Station Officer to arrest Ram Singh in connection with a charge of dacoity. The learned Sessions Judge's finding is that it is not proved that the

Station Officer did depute this constable for this purpose. He did not believe the statement of the Station Officer in this respect.

4. It is argued, therefore, that the learned Judge ought not to have convicted Ram Singh under Section 323 but ought to have given him the full benefit of the order of acquittal.

5. It seems to me that the learned Sessions Judge's finding that Ram Singh was not in lawful custody is correct. It follows, therefore, that the constable was guilty of the offence of wrongful confinement and obviously as against him Ram Singh would be entitled to right of private defence. On the other hand the learned Assistant Government Advocate referred me to Section 99 of the Code, but here I think the findings of the Judge prevent my coming to the conclusion that the constable was acting in good faith under colour of his office. I, allow the application, therefore, and set aside the conviction and sentence under Section 323. The accused Ram Singh is acquitted and released.

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