

State Vs. Govinddas

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Court : Madhya Pradesh

Decided On : Jun-17-1955

Reported in : 1957CriLJ448

Judge : Dixit, J.

Appellant : State

Respondent : Govinddas

Judgement :

ORDER

Dixit, J.

1. The non-applicant Govinddas was found guilty by the First Class Magistrate Depalpur of an offence under Section 380, I.P.C. The learned Magistrate taking into consideration a previous conviction of the accused, sentenced him to one year's rigorous imprisonment for the offence. In appeal the Additional Sessions Judge of Indore while maintaining the conviction reduced the sentence to four month's rigorous imprisonment on the ground that the previous conviction, on which the trial Magistrate relied, had not been proved in accordance with Section 511 Criminal Procedure Code. It appears that at the trial the prosecution did not prove the previous conviction of the applicant. But the accused in his cross-examination under Section 342 Cr. P.C. admitted the previous conviction. In this revision petition it is contended on behalf of the State that the accused could be

questioned regarding the previous conviction without the same being duly proved. I am unable to accept this contention.

Section 511, Cr P. C. is quite explicit and clear on the point and says that for the purpose of Section 75 I.P.C. a previous conviction must be proved in accordance with law. The trial Magistrate was clearly not justified in Questioning the accused under Section 342, Cr. P. C. about the previous conviction, when there was no evidence against him on that point. This view is amply supported by the decisions in Yasin v. Emperor ILR 2S Cal 689(A) and Sardar Ahmad v. Emperor AIR 1934 Lah 693(B) and other authorities. This petition is, therefore, rejected. HOP Petition rejected.

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