

In Re: Lokman RamdlIn and ors.

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SooperKanoon Citation : sooperkanoon.com/503184

Court : Madhya Pradesh

Decided On : Jul-06-1961

Reported in : 1962CriLJ657

Judge : P.R. Sharma, J.

Appellant : In Re: Lokman RamdlIn and ors.

Judgement :

P.R. Sharma, J.

1. The appellants named above were convicted and sentenced by the Special Judge Bhind of offences under Sections 395 and 397 I.P.C. to undergo rigorous imprisonment for seven years each. They have preferred this appeal (through counsel) against their conviction and sentence.

2. On the 6th of December, 1956 a dacoity was committed by 20/25 persons at village Katchpura - a bulk of the population of which consists of persons belonging to the Gujar community. After almost all the houses of the village had been looted the dacoits left the village shortly after dusk.

3. The first information report about this incident was lodged by Pw. 1 - Madhoaingh at police station Ater on 7.12.1956 at 12 noon. Out of the present appellants the names of Kanhai and Lukka were mentioned in the report as also the fact that the dacoity in question had been committed by the members of

Rupa's gang. None of the present appellants could be arrested by the police for several years after the incident. On the 19th of May, 1960 the present appellants surrendered themselves before Shri Acharya Vinoba Bhave in response to what has been termed by the learned Sessions Judge as his peace mission.

4. The conviction of the present appellants is based on the direct testimony of only four witnesses namely PW. 1-Madhosinagh, PW. 3-Shobharam, PW-6-Lajjaram and PW. 10-Ratiram.

At the outset it must be observed that the learned Sessions Judge acted illegally in basing his decision as to the trustworthiness of these 4 witnesses on a comparison of the evidence of each witness with the statement made by him to the police during investigation. Section 162 of the Code of Criminal Procedure even in its amended form permits the prosecution only to contradict its witness with the permission of the Court. But there is nothing in that section to warrant the use by the Court of the statements made by witnesses to the police during investigation for the purpose of determining the Weight to be attached to their testimony without these statements having been proved by either party in accordance with the proviso to Section 162 of the Code of Criminal Procedure. The result of this illegality committed by the trial Court has been that it did not subject the evidence of such witness to a close scrutiny in order to determine its inherent worth. I have, therefore, had to do so myself.

5-10. (After perusing the evidences of these witnesses, his Lordship rejected the same as unworthy of credit and proceeded).

11. The result is that this appeal is allowed and the appellants are acquitted of the offences charged. They shall be set at liberty unless required in connection with some other case.