

Mangan Das Vs. Emperor

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Court : Kolkata

Decided On : Jan-16-1902

Reported in : (1902)ILR29Cal379

Judge : Stevens and ;Harington, JJ.

Appellant : Mangan Das

Respondent : Emperor

Judgement :

Stevens and Harington, JJ.

1. In this case it is clear that there was a misdirection on the part of the learned Judge to the Jury, in that he did not comply with the provisions of Section 297 of the Criminal Procedure Code, which requires that the Judge shall lay down the law by which the Jury are to be guided. What the learned Judge says is 'the accused are charged with offences under Sections 147, 323 with 149, 325 with 149, and 304 with 149. The law bearing on the case has been placed before you more than once in the addresses delivered by the learned pleaders on either side. I need not go into detail as to the law therefor.'

2. It is immaterial how much or how often the Jury may have been addressed by the pleaders on both sides upon the law. The responsibility of laying down the law for the guidance of the Jury rested entirely with the Judge, and the verdict arrived

at by the Jury in the absence of any such direction on the law by which they should be guided cannot be accepted as a valid verdict in the case.

3. We also think that, although the common object of the tail awful assembly is stated in the charge, the learned Judge ought, in commenting upon the provisions of Section 149 of the Indian Penal Code, to have drawn the attention of the Jury expressly to the common object.

4. We must accordingly set aside the conviction and sentence in this case and direct a retrial.

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