

The Empress Vs. Gopal Dhanuk.

The Empress Vs. Gopal Dhanuk.

SooperKanoon Citation : sooperkanoon.com/859173

Court : Kolkata

Decided On : Apr-21-1881

Reported in : (1881)ILR7Cal96

Judge : Morris and ;Tottenham, JJ.

Appellant : The Empress

Respondent : Gopal Dhanuk.

Judgement :

Morris, J.

1. This conviction is bad in law, and must be set aside. The Sessions Judge states that the prisoner pleads guilty to the charge, and that the only question is as to what punishment should be allotted. We find in the proceedings no record of the prisoner's plea, as required by Section 237 of the Code of Criminal Procedure, when he pleads guilty. All that we find is a narrative by the Judge of what occurred and of the statements made by the prisoner. We do not find from this, that the charge was explained as well as read to the prisoner (vide Section 237), and we do find that he did not admit one very important element in an offence under Section 211 of the Penal Code, viz., the intention to injure another. The prisoner is said to have represented that he made the false complaint unthinkingly. This certainly does not amount to a plea of guilty.

2. The Judge was further somewhat inconsistent, for, after stating that the prisoner pleaded guilty, he proceeds to show that he was not guilty of the charge as framed, inasmuch as he had not made a complaint of an offence under Section 304A of the Penal Code, which was alleged in the charge.

3. The Judge committed an error, therefore, in convicting the prisoner without a trial. We therefore set aside the conviction and sentence, and direct that the prisoner be tried according to law, and that the Judge conform to the procedure laid down in chap. XIX, Code of Criminal Procedure.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com