

AmiruddIn and ors. Vs. Emperor

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Court : Kolkata

Decided On : Jul-22-1924

Reported in : AIR1925Cal217

Appellant : AmiruddIn and ors.

Respondent : Emperor

Judgement :

Sanderson, C.J.

1. This is a Rule granted by two of my learned brothers calling upon the District Magistrate to show cause why the conviction and sentence passed on the petitioners Salimuddy Pramanik, Gani Pramanik and Kazem Pramanik under Section 342 read with Section 149 should not be set aside on the 7th ground stated in the petition.

2. The 7th ground was that the order of separate sentence passed on the petitioners was illegal.

3. The learned Vakil has stated that he cannot argue that the conviction should be set aside: and, he has confined his argument to the question whether the imposition of separate sentence under Section 342 read with Section 149 was illegal. We are of opinion that it was, by reason of the provisions of Section 71, I.P.C.

4. Consequently, the Rule should be made absolute and the sentence of three weeks' rigorous imprisonment under Sections 342 and 149 must be set aside.

5. We draw the attention of the Lower Court to the case of Alim Sheikh v. Shahazada Singh (1904) 8 C.W.N. 483 and also to the case of Kiamuddi Karikar v. Emperor : AIR1924 Cal771 .

6. The bail bonds of the petitioners will be cancelled.

Walmsley, J.

7. I agree.

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