

Moti Lal

Vs

State of Uttar Pradesh

Criminal Appeal No. 181 of 1973

(Syed M. Fazal Ali, A. D. Koshal JJ)

18.01.1979

JUDGMENT

FAZAL ALI, J.

1. - This appeal by special leave is confined only to the question whether or not the appellant should be released on probation under the U.P. First Offenders Act. It appears that the appellant was a young man and a student and there is no evidence to show that he had any previous conviction to his credit. In the facts and circumstances of the case we feel that if the appellant is sent to jail the prospect of his becoming a hardened criminal in the company of other criminals cannot be ruled out. It is also clear that the offence under Section 399/402 IPC of which the appellant has been convicted is not punishable with death or imprisonment for life. In these circumstances, we are satisfied that this is a fit case in which the appellant should be released on probation. We accordingly allow this appeal and while maintaining the conviction, instead of passing the sentence of imprisonment which we set aside, we release the appellant on probation of good conduct by furnishing a bond with two sureties of Rs. 5000 each of the satisfaction of the trial Court with an undertaking that he will maintain good behaviour during the period of two years, failing which he will have to appear and receive the sentence imposed.

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