

Ratilal Prithviraj Bafna and Others

Vs

Purshottam Krishnaji Kane and Others

Criminal Appeals Nos. 16-19 of 1974

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

31.01.1979

JUDGMENT

FAZAL ALI, J. -

1. All these appeals have been pressed before us only on the question of sentence. More particularly appellants 1 and 3 have not been given the benefit of the Probation of Offenders Act although the other appellants have been given its benefit by the High Court which enhanced the sentence imposed by the Magistrate at the instance of the State. We are not concerned with the merits at all. The High Court has clearly found that accused 2 to 4 are partners of the firm and they are members of the same family, while accused 1 is the manager. In this situation, therefore, we do not find any distinction between the case of the appellants 1 and 3 and the other appellants. We are unable to support the order of the High Court which gave the benefit of the Probation of Offenders Act to the other accused but not to the appellants 1 and 3. In these circumstances while upholding the conviction of the appellants, we modify their sentences to this extent that the sentence of appellants 1 and 3 stand suspended and the appellants will be released on probation on executing a bond of Rs. 1000 to maintain good behaviour for a period of one year failing which they will be called upon to receive the sentence. With this modification, the appeals are dismissed.

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