

ALLAHABAD HIGH COURT

Har Prasad

Vs

Emperor

(P Banerjee, J.)

27.07.1916

JUDGMENT

P.C. Banerjee, J.

1. The conviction in this case cannot be supported. A dacoity has been proved to have taken place at the dharamsala of Musammat Gaura Kunwar. The question was whether the accused took part in the dacoity. The only evidence against him is his own confession recorded by a Magistrate on the 13th of March 1916. He was tendered a pardon and made a witness in the case, but he retracted the confession and was thereupon prosecuted for the offence of dacoity. The retracted confession is, as I have said above, the only evidence against him. It is needless to say that it is most unsafe to convict an accused person upon a retracted confession unless there is corroboration of the confession by other evidence. The confession is, no doubt, admissible against him, but when it is retracted its value is greatly diminished and it becomes necessary to have satisfactory corroboration of it so as to enable the Court to determine whether the confession is true or not. In the present instance the corroboration is practically nil. The learned Sessions Judge refers to certain matters mentioned in the confession which were true in fact, but those matters were well known to the Police and to every one else before the confession was made. I do not think the Court below was at all justified in convicting the appellant upon the evidence which was before it. I allow the appeal, set' aside the conviction and sentence and acquitting the appellant of the offence of which he was convicted direct that he be forthwith released.