

(1988) 01 RAJ CK 0015
In the Rajasthan High Court
Case No : Criminal Appeal No. 11 of 1979

Mohan Lal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 28-01-1988

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 256
Penal Code, 1860 (IPC) — Section 323

Citation : (1988) WLN 208

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahendra Bhushan Sharma, J.—Exercising his powers u/s 256 of the Cr.PC in a complaint a case u/s 323 IPC in the absence of the complainant on a date fixed for the evidence of the complainant the learned Magistrate under his order dated 29th August. 1977, acquitted the accused respondents. The complainant has preferred this appeal against their acquittal.

2. None has appeared on behalf of the appellant. From the perusal of the complaint it appears that it relates to a dispute in between the landlord and the tenants. In the absence of the complainant in a case which is a summons case, on the date of hearing the learned Magistrate, could have acquitted the accused persons. The exercise of the discretion by the learned Magistrate u/s 256 Cr.PC it does not call for any interference. That apart this appeal is pending since 1979 and even if the order of acquittal would have been improper which is not in the present case, this court would have declined to interfere and would have refused to send the accused respondents on trial in a case of petty nature, the Supreme Court in the case of S. Guin v. Grindlays Company Ltd AIR 1986 SC 255, a case which was pending in the High Court for 6 years against the acquittal of the accused observed that in view inordinate delay and nature of offence involved, retrial should not be ordered even if the acquittal was improper.

3. In the result, I dismiss this appeal.