

(1922) 08 AHC CK 0010

Allahabad High Court

Case No: None

Gokal and Others

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: Aug. 19, 1922

Acts Referred:

- Penal Code, 1860 (IPC) - Section 352

Citation: 71 Ind. Cas. 503

Hon'ble Judges: Stuart, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

Stuart, J.

I do not agree with the learned Sessions Judge that no offence was committed. Upon the facts the four persons convicted clearly used criminal force, I am not disposed to go out of my way to find technical excuses for persons who use criminal force towards constables acting honestly within the scope of their authority. The circumstance that the warrant which they were endeavouring to execute contained a technical defect, which the constables could not possibly have any idea of, would affect the case only this much that it renders the persons convicted not guilty of a more serious offence. They have already been found not guilty of that offence. The position of the constables was that they had to obey orders. The persons convicted had not the vaguest idea that the warrant contained a technical defect but used criminal force to prevent the warrant being executed. I change the convictions from Sections 323 to convictions u/s 352 and uphold the sentences. If Enayat has been released on bail, he will surrender to his bail and serve the remainder of the sentence of one month's rigorous imprisonment.