

**(1926) 11 BOM CK 0017****Bombay High Court****Case No:** None

Madat Khan

APPELLANT

Vs

The King-Emperor

RESPONDENT

**Date of Decision:** Nov. 11, 1926**Citation:** (1927) 29 BOMLR 784**Hon'ble Judges:** Viscount Haldane, J; Sumner, J; Sinha, J**Bench:** Full Bench**Judgement**

Viscount Haldane, J.

In this case their Lordships advised His Majesty that special leave to appeal should be granted, because of the apprehension that it might turn out that evidence which was given in one trial had been improperly imported into a quite separate trial. Now that the "case has been fully and fairly put by Mr. Wallach on its merits, it turns out that the apprehension was not well founded.

2. Two parties were charged for their attacks on each other in the same occurrence, and the charges were tried separately at two distinct trials. But, naturally, as the occurrences were common to both cases, the evidence given for the prosecution was similar to a substantial extent in each case. Each party no doubt was a witness against the other, but, on the other hand, there was also independent evidence. In a case of that kind it is almost impossible to keep the cases wholly separate. Although they were tried separately, the High Court gave one judgment, but treated the cases as two cases which had been separately tried. It is said that they imported considerations from one case into the other. When one looks at it, to some extent that was inevitable and to some extent it did so happen. There was, however, a body of separate evidence which was applicable to each case, and that in itself was enough for the conviction; so that, although technically it might have been better to keep the evidence entirely distinct and to have delivered two separate judgments, no injustice has followed from what was done. There is no doubt that in substance the learned Judges had material on which to come to the conclusion to which they

did come. They have come to a conclusion which in substance appears to their Lordships to be the right one, and it is only on technical grounds that that conclusion could be questioned.

3. In those circumstances their Lordships see no good reason for advising His Majesty to interfere in this case and the appeal should be dismissed.