

It ought to be clearly understood that the Supreme Court in dismissing the appeal from a decision denying the application for a writ of habeas corpus in the case of LEO M. FRANK of Atlanta did not in any way or manner pass upon the question of FRANK'S innocence or guilt. Nothing is more common than the erroneous impression that when the Supreme Court hands down an opinion in any case it must necessarily decide that one of the parties to the action was right and the other wrong. In respect to the action immediately before the court this is true, but it is very often not at all true of the merits of the original suit out of which the appeal to the Supreme Court arose. In its opinion in the Frank case, after discussing the question whether the jurisdiction of the trial court could be conclusively determined against the prisoner by a decision of the Supreme Court of Georgia, the court said:

But this does not mean that that decision may be ignored or disregarded. To do this, as we have already pointed out, would be not merely to disregard comity, but to ignore the essential question before us, which is not the guilt or innocence of the prisoner, or the truth of any particular fact asserted by him, but whether the State, taking into view the entire course of its procedure, has deprived him of due process of law.

The Supreme Court was not concerned with the guilt or innocence of FRANK, but with the regularity of the procedure in the State courts. The question before it was whether he had been deprived of any of his rights under the Constitutional guarantee of due process of law. It decided that he had not. The question of guilt stands just where it did when the trial Judge declared that the evidence had not convinced him that FRANK was guilty.