

Reg Vs. Hanmant Gavda

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SooperKanoon Citation : sooperkanoon.com/329213

Court : Mumbai

Decided On : Jun-14-1876

Reported in : (1877)ILR1Bom228

Judge : Melvill and ;Kemball, JJ.

Appellant : Reg

Respondent : Hanmant Gavda

Judgement :

Melvill, J.

1. Assuming that there is evidence on the record to prove that the cotton was found in a room occupied jointly by the prisoner and his mother, and assuming that this fact is sufficient to constitute possession by the prisoner, we still think that such possession, even though accompanied by a knowledge that the cotton was adulterated, would not be sufficient to sustain a conviction. The Magistrate says: 'There is, it is true, no direct evidence as to the appellant having personally adulterated, or caused to be adulterated, the cotton in question (that the cotton is adulterated by an admixture of dirt and seed is not even denied by appellant); and, in fact, it would be simply unreasonable to expect that the Cotton Department should bring forward actual eye-witnesses of the ginning and packing of cotton which may be seized by the Department; but under ordinary circumstances, when cotton in considerable quantities is found in dokras in a man's possession, and

such cotton is found to be adulterated, the natural presumption is that that man is the person who adulterated the cotton, or caused it to be adulterated, and then had it packed'. This is as much as to say that the mere possession of adulterated cotton is sufficient for a conviction. If that were so, Bombay Act IX of 1863 would, no doubt, have said so in distinct terms. If possession, and nothing more, were sufficient to bring a person within the penalties provided in Section 2 of the Act, it would have been useless to enact the penalties provided by Sections 3 and 8 of the Act for fraudulently offering adulterated cotton for sale or for compression. The possession of stolen goods soon after the theft justifies a presumption that the person in possession is either the thief or has received the goods, knowing them to be stolen (section 114, Evidence Act), If the same analogy be applied to the possession of adulterated cotton, the legal presumption is not necessarily that the person in possession adulterated the cotton; it is an equally admissible presumption that he received the cotton, knowing it to have been adulterated. In the latter case there would certainly be nothing in the provisions of Bombay Act IX of 1863 under which such receipt would be punishable. In the present instance it is just as likely that the prisoner bought dirty cotton from the cultivators, intending to sell it as good cotton, as that he adulterated it himself; but, if that were so, there is nothing in the law which would make him liable to punishment, until he offered it for sale or compression. It is very desirable that the Magistrates and the officers of the Cotton Department should understand that they are not justified in seizing and confiscating dirty cotton wherever they may find it, or in punishing persons against whom nothing more is proved than that they had dirty cotton in their possession. These observations are sufficient to dispose of the conviction against the prisoner, which is accordingly reversed.