

Emperor Vs. Latoor

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Court : Allahabad

Decided On : Sep-12-1929

Reported in : AIR1930All33; 121Ind.Cas.549

Appellant : Emperor

Respondent : Latoor

Judgement :

1. This is a reference by the learned Sessions Judge of Bijnor re-commending the enhancement of sentence in the case of one Latoor who was convicted by a Magistrate of the First Class under Section 212, I.P.C. and, sentenced to a fine of Rs. 25.
2. If the conviction was justified, there can be no doubt that the sentence passed by the learned Magistrate was grossly inadequate and the reference made by the learned Sessions Judge was thoughty justified and proper.
3. The reference is opposed by Latoor, who is represented by counsel. Mr. Roy challenges the propriety and legality of the conviction of Latoor under Section 212, I.P.C.
4. The charge preferred against Latoor was that on or about 30th January 1929, he was found concealing and harbouring one Baldewa an absconded 'offender' under Sections 396 and 366, I.P.C. knowing or having reason to believe that the said person was an offender and absconder. We have been taken through the

evidence on the record and we do not find that there are any sufficient materials on the record to show that Baldewa had committed an offence under Section 396 or Section 366, I.P.C. We have been referred to the statement of Mt. Bharto who says that she was kidnapped by Baldewa. Baldewa has not yet been tried and the solitary statement of Mt. Bharto as to her being kidnapped by Baldewa does not commend itself to us.

5. The prosecution is confronted with another difficulty. There is neither affirmative nor any circumstantial evidence to bring home to the door of Latoor that he knew or had reason to believe that Baldewa was an offender within the meaning of Section 212, I.P. C A person can be supposed to 'know' where there is a direct appeal to his senses. A person 'has reason to believe' under Section 26, I.P.C. if he has sufficient cause to believe the thing but not other wise.

6. It may be that proclamations were is sued broadcast against Baldewa. It is possible that his property may have beer attached but it does not follow therefrom that Baldewa was an offender. The word 'offender' used under Section 212 I.P.C. means a person who has contravened the provision of any criminal law, which is punishable either with death transportation, imprisonment on fine. Upon the evidence on the record it is impossible for us to come to the conclusion that Baldewa was an offender' under Section 212, I.P.C.

7. The result is that we reject the reference. We set aside the order of the Magistrate, convicting Latoor under Section 212, I.P.C. and direct that the fine if paid should be refunded to him.