

Janki Rai Vs. Emperor

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Court : Allahabad

Decided On : Jan-17-1927

Reported in : AIR1927All383

Appellant : Janki Rai

Respondent : Emperor

Judgement :

Dalal, J.

1. This is an application in revision from the judgment of a learned Sessions Judge upholding the applicant's conviction under Section 199, I.P.C. The facts are admitted, as they must be, here by the applicant's learned Counsel, Dr. Agarwala. He raised a point of law that on those facts no offence was committed under Section 199.

2. In a suit for sale against a Hindu father and his sons the father filed a written statement to the effect that the money was borrowed for the benefit of the plaintiff's father, who was a brother of the applicant. The written Statement was verified as required by the provisions of Order 6, Rule 15, but the Court had not ordered proof of the statements made therein by affidavit as it had power to do under Order 19, Rule 1. Under the circumstances, the question before this Court is whether the written statement falls within the terms of Section 199 which makes punishable any declaration which any Court of justice is bound or authorized by law to receive

as evidence of any fact. A written statement is a pleading under Order 6, which describes how pleadings are to be prepared. Order 8, Rule 1 lays down that a defendant may present a written statement of his defence. After the written statement is filed, the Court ascertains from each party or his pleader admission or denial of allegations of fact made in the plaint or written statement. This is provided for in Order 10, Rule 1. These admissions or denials are the basis of issues to be framed by the Court. The Civil P.C. does not provide that statements in written statements are to be received as evidence. The pleadings lay down the points of difference between the parties which have to be decided by the Court on evidence to be recorded subsequently. It is for this reason that the importance of recording the evidence of parties is constantly pointed out to civil Courts.

3. In the present case as in the majority of cases the Court did not proceed to record the statement of the applicant. If the applicant had repeated on oath the statements of the written statement which had been found to be false, he would have rendered himself liable to prosecution under Section 199. Under Section 21 of the Evidence Act, a Court is bound to receive in evidence admissions of a party, but no such rule applies to denials. In my opinion an allegation in a written statement is not evidence of any fact, which a Court is bound or authorized by law to receive. Dr. Agarwala referred the Court to a ruling of the Calcutta High Court, *Chandi Pershad v. Abdul Rahman* [1894] 22 Cal. 131. The accused parson made a declaration to a Municipality as prescribed by statute in order to obtain a license for horses and conveyances. In that case the learned Judges held that a prosecution under Section 199 would not be tenable on the ground that the statement made by the accused in that case was no evidence against himself as proving an admission by him and no more.

4. I set aside the conviction and sentence, and order the applicant to be released at once if he is in jail and direct the fine, if recovered, to be refunded. If he has given a bond, it shall be cancelled.