Queen-empress Vs. Mitthu Lal

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1886)ILR8All18

Judge : W. Comer Petheram, C.J.

Appellant : Queen-empress

Respondent : Mitthu Lal

Judgement :

W. Comer Petheram, C.J.

1. I am of opinion that the accused, Mitthu Lal, has not been guilty of the offence of abetment as defined by Section 107 of the Indian Penal Code. The facts, as proved, are that the accused paid a sum of money to a creditor, and that when the money was paid and he was to receive a receipt, the creditor said that he could not give a stamped one as he had no stamp. Upon this the accused accepted a receipt without a stamp, and promised himself to affix one. Upon these facts it is clear that the accused did not aid the offence by any act, because he did nothing; and the only question is, whether he illegally omitted to do anything which he was bound by law to do. As far as I can see, he did all that he could do; he asked for a stamped receipt, and, on being informed that it was impossible to give him one, as the creditor had no stamp, he took the only thing he could get, that is, the receipt without the stamp. The decision of Brodhurst, J., in the case of Bahadur Singh,

Weekly Notes, 1885, p. 30 is not in point. In that case the acknowledgment was written in the accused's own book and at his request. The present case is really governed by the other cases cited. The conviction and sentence on Mitthu Lal are set aside. The fine to be refunded, if paid.