

KalidIn Vs. Emperor

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Court : Allahabad

Decided On : Jul-03-1919

Reported in : AIR1919All387(2); 52Ind.Cas.61

Judge : Stuart, J.

Appellant : Kalidin

Respondent : Emperor

Judgement :

Stuart, J.

1. The learned Additional Sessions Judge has tried this case with great care. His reasoning is for the most part excellent and his conclusions of fact are, in my opinion, absolutely made out.

2. I am satisfied that the appellant deliberately altered the figure 1282 into the figure 1262, under the impression that if he did not make the alteration the document would not be received in evidence. But the question remains whether on the facts as found by the learned Additional Sessions Judge an offence is made out under the law. In my opinion an offence is not made out because the element of 'dishonesty' or 'fraud' required under the provisions of Section 464 is wanting. 'Dishonesty' is defined in Sections 23 and 24 of the Indian Penal Code. Now what did the appellant do here? He made an alteration for a very silly reason. As a

matter of fact he mismanaged his case from beginning to end. It was perfectly true that the Zemindar's predecessors-in-interest had granted the appellant's predecessors in-interest land on favourable terms in recognition of their service. Now this circumstance was one which the Settlement Officer would no doubt have taken into consideration under the proviso to Section 87, Local Act III of 1901, in an application for enhancement of rent. He would not be bound by the fact one way or another, but he would take it into consideration. The applicant could in no way be helped by making this alteration. The lease had been executed in 1282 Fasli, that is to say, in 1875 A. D. He could not be satisfied with the truth, but with that stupid low cunning that distinguishes so many persons of his class not only in the Basti district, he wanted to throw the document back to the year 1857 and in consequence ruined his own case. He behaved badly and improperly, but he did not behave 'dishonestly' within the meaning of the law, and as he did not behave dishonestly or fraudulently within the meaning of the law, he cannot be convicted under Section 471. The result is that I accept the appeal and set aside the conviction and sentence.

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