

Habib and ors. Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/462457

Court : Allahabad

Decided On : Feb-19-1936

Reported in : AIR1936All386

Appellant : Habib and ors.

Respondent : Emperor

Judgement :

ORDER

Allsop, J.

1. The three applicants were sentenced to whipping of 12 stripes each under Section 457, I.P.C. There was evidence that a burglary was committed in the house of the complainant who discovered the fact next morning and made a report to the police in which he mentioned that he suspected the applicants because he had seen them together sitting in front of the house of one of them. It is very likely that suspicions were aroused because these people were not of good character, but that is a matter which it is not necessary to discuss. The result was that the houses occupied by the applicants were searched. In both the houses stolen property was found.

2. The argument in respect of one of these men is that the property is not established to be stolen property. The Magistrate tried the case summarily. He had the evidence before him. He believed that the property was stolen property

especially as the applicant concerned produced no evidence to establish that the property was his. The other two applicants are brothers and live in the same house. They admitted that stolen property was found in their house and did not claim it as theirs. They did not explain how it got there. The argument addressed to me on their behalf is that neither could be convicted because it cannot be said which of them was in possession of the property. The fact that the house in which the property was found was occupied by both of them is established. The only question therefore which remains is whether it can be reasonably supposed that they both knew that the property was in the house because, if they did, they are both guilty.

3. A reference has been made to certain rulings of this and other Courts. It has never been laid down that in no circumstances can a man be convicted of being in possession of stolen property if there are inmates of the house other than himself. All that has been laid down is that no person can be convicted if it is doubtful whether he or some other person had guilty knowledge that the property was in the house occupied by him and others. In the present case, the Magistrate who had sufficient experience to be entrusted with summary powers came to the conclusion that both the applicants were guilty. The law provides no right of appeal against his decision.

4. Besides the fact that the property was found and that neither of the applicants can offer any explanation, there is the further fact that the three applicants were seen together on the evening before the crime was committed. It cannot be said that the Magistrate's finding is obviously wrong. There is no justification for interference in revision. The application is rejected.