

Bakhtawar Vs. Emperor

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Court : Allahabad

Decided On : Jan-08-1918

Reported in : AIR1918All211(1); 43Ind.Cas.832

Judge : George Knox, J.

Appellant : Bakhtawar

Respondent : Emperor

Judgement :

George Knox, J.

1. The learned Sessions Judge of Cawnpore has reported this case for orders The case is thus stated by him: One Bakhtawar, a workman already in the service of a master, whose name is not given, took an advance of Rs. 10 and promised to work for ten months on the understanding that Re. 1 was to be deducted each month from his wages. He worked for a very small portion of the time and then refused to go on working. The Joint Magistrate of Cawnpore directed him to perform the contract on a bond of Rs. 50 with one surety in Rs. 50 or in default to undergo two weeks' rigorous imprisonment. The learned Sessions Judge considers it absurd to allow an employer to tie down a servant to work with him for ten months on a mere advance of a sum amounting to Re. 1 for each month of the service. But he apparently feels that the language of the Act is too strong for his view, unless it can be held that there is some lawful or reasonable excuse for refusing to perform the Contract. In his referring order he says that Bakhtawar so

he is told, is perfectly willing to Pay back the Rs. 10 and considers that an offer on Bakhtawar's part to pay back the Rs. 10 would constitute a reasonable excuse for refusing performance of the contract. Farther the learned Judge says that it is not clear whether there was any evidence of such an offer by the appellant as the record is summary, and suggests that the High Court will be prepared to hold that any excuse is a reasonable excuse under Section 2 of Act XIII of. 1859 for not performing an unreasonable contract. Apparently the case of C.J. Lucas v. Ramai Singh 23 Ind. Cas. 185 : 12 A.L.J. 152 : 13 Cr. L.J. 233 was never brought to the notice of the learned Judge. The difficulties which occurred to the learned Judge were put forward in that case and considered. That was a Division Bench case and I am bound by the ruling. Over and above that I am not prepared to hold that Such a contract is unreasonable or absurd; the more so when the contract is made and breach of it occurs in a town like Cawnpore where, unless it is proved to the contrary, every workman knows that there is a law like Act XIII of 1859 and enters into a con-tract voluntarily and willingly. When a man enters into a contract, he must carry out the terms of the contract into which he has entered unless he can show some reasonable excuse. One of the terms of the very same contract can hardly be afterwards held up as a reasonable excuse for non-performance. Let the record be returned with this expression of opinion from this Court.