

Ayyub Vs. Emperor

Ayyub Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/465765

Court : Allahabad

Decided On : Jul-05-1928

Reported in : AIR1928All759

Appellant : Ayyub

Respondent : Emperor

Judgement :

Dalal, J.

1. Ayyub has appealed from his conviction under Section 489-D, I.P.C. The charge against him was that he was in possession of instrument or material for the purpose of being used or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting 5 rupee notes. The articles found in his possession were:
2. Exhibit 2, a genuine 5 rupee note chemically treated,
3. Exhibit 3, a paper of the size of a 5 rupee note with a faint impression at the time of the trial of a 5 rupee note,
4. Exhibits 4 and 5 plain paper of the size and thickness of a 5-rupee note,
5. Exhibit 6, two pieces one of cyanide of sodium and the other of cyanide of potassium,

6. Exhibit 8, a phial containing two pieces of silver nitrate.

7. Exhibit 9, gun, and

8. Exhibit 10, six small pieces of paper containing pencil tracings of figures and signatures on a 5 rupee note.

9. It was argued by Mr. Goyle on behalf of the appellant that the possession of these articles did not raise a presumption that the appellant was in possession of the materials for the purpose of using them in counterfeiting a currency-note of Rs.

5. First of all the appellant himself has given no explanation as to why he was in possession. This by itself would raise a presumption of his dishonest intention. As was done in the trial Court, a Full Bench ruling of the Madras High Court In the case of Abdul Rahman v. Emperor [1911] 21 M.L.J. 756 was quoted. The judgment of Sundara Aiyar, J. very rightly insists that the burden lay on the prosecution to prove the state of mind of the accused that he had possession of the materials for the purpose of being used for counterfeiting a 5-rupee note. In that case no expert evidence was produced so the case is different from the present where an expert witness was produced. The learned Judge tried to discover from the materials before him whether the accused in that case had formed in his mind the purpose or intention of counterfeiting a currency-note with the 'materials produced in Court. He came to the conclusion that he had not. That judgment is in no way in conflict with the judgment of the learned Sessions Judge in appeal here.

10. There is no question that the law enunciated with such care in the Madras judgment already quoted is in any way varied or need be differed from in order to convict the appellant. The question which this Court has to put to itself just as was done by the learned Judge of the Madras High Court is whether the accused had formed in his mind the purpose or intention of counterfeiting a currency note by means of the materials produced in this Court. As already mentioned he himself gives the Court no help to discover the state of his mind. He has not explained that he was only experimenting, had met with several failures and was satisfied in his mind that he had not yet attained success so as to produce a passable counterfeit currency note with the materials before us. The opinion of the expert was that with

the use of these materials a 5-rupee note can be counterfeited. Much stress was laid by Mr. Goyle on the cross-examination in which the expert Lieutenant Colonel Willis did not think much of the impression obtained by the appellant on paper Ex. 3. Lieutenant Colonel Willis however, cannot divine what process the prisoner intended to follow. As pointed out by the learned Judge the prisoner may have been following the process of preparing a wooden block for the printing of a 5-rupee currency note. If the appellant had no hope whatsoever of preparing a passable counterfeit, he would not have been so stupid as to treat a 5-rupee note in such a way as to destroy it. He was caught while his preparations were incomplete, and it is possible that his purpose was after obtaining a photographic copy of the 5-rupee note on the white paper of the size of the note by means of the chemical in his possession to prepare a wooden block for printing. Unless he had such determined purpose he would not have experimented with paper of value. He is not a man of such means that a 5-rupee note would be of little consequence to him. The expert evidence and the 5-rupee note in this case in my opinion, distinguish the details of this case from those of the Madras case. In the Madras case the learned Judge took care to point out that the counterfeit need not be perfect. All his difficulty lay in discovering the state of the mind of the appellant before him.

11. In the present case that state of mind is indicated first of all by the prisoner's false denial of possession of the materials above described and next by the evidence of Lieutenant Colonel Willis and the treatment of a 5-rupee note by some chemical. I think that observing the principles laid down by the learned Judge of the Madras High Court it may be safely presumed in this case that the intention of the appellant was to counterfeit a 5-rupee note with the materials produced in Court. He had certainly that purpose. I dismiss this appeal.