

Tulsi Ram Vs. Emperor

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Court : Allahabad

Decided On : Feb-19-1936

Reported in : AIR1936All650

Appellant : Tulsi Ram

Respondent : Emperor

Judgement :

ORDER

Allsop, J.

1. The applicant Tulshi Ram has been sentenced to rigorous imprisonment for a period of one year and to a fine of Rs. 100 under Section 243, I.P.C., for being in possession of counterfeit coin which are counterfeits of the King's coin with intent that fraud might be committed and having known at the time when he became possessed of the coin that they were counterfeit.

2. It appears from the evidence that a Sub-Inspector of Police obtained information that the applicant and his brother Salig Ram, who lived with him, were engaged in manufacturing and passing counterfeit coin in connexion with a relation of theirs. He consequently searched the house in the presence of a large number of people, including 5 witnesses four of whom signed the search list. One of these witnesses, as the learned Judge has remarked, was a gentleman of position. This gentleman has not been produced as a witness in the case, but the learned Judge has

remarked quite reasonably that it was not probable that any underhand dealings would take place in his presence. The witnesses who have been examined say that the house was searched and that some counterfeit coin and a mould were found in a rack in one of the rooms. There is not the slightest reason to disbelieve this evidence in the circumstances. There can be no doubt, therefore, that counterfeit coin were found in the house occupied by the applicant and his brother.

3. One of the points raised in de fence was that there had been a partition of the house and that this particular part of it in which the coins were found was in the separate possession of an uncle of the applicant, called Gajadhar. The Magistrate disbelieved this evidence. The point was raised again in the Sessions Court in appeal and the learned Sessions Judge was satisfied that the story was not true. This is an application in revision and it is not for me necessarily to go into all the questions of fact involved. It seems to me, however, that it is perfectly clear that the de fence cannot be true. If the house of that part of it which was being searched had been in the possession of Gajadhar and not of the applicant and his brother, the applicant would have said so at the time, and there is nothing to show that he did say so. There are two de fence witnesses who are obviously unreliable. They have tried to make out that the rack in which the articles are alleged to have been found was first searched in their presence and that the articles were not in it. They say that they left the room and that a constable then said that he had found the articles in the rack. Considering the number of people present and the nature of this search, I have no doubt that this story is absolutely false, and it follows that the witnesses are unreliable.

4. The next point urged is that there is nothing to show that Tulshi Ram had any knowledge that these articles were in his house. It has been said that he has been convicted merely because he was the head of the family. I think it should be clearly understood what the law is on this subject of searches. It is certainly not intended that no person in possession of a house shall be convicted of being in possession of stolen property or counterfeit coin or anything of that kind if there happen to be other people living in the house, and if it cannot be positively established that the person convicted had put the incriminating articles in the place where they were found. It must be shown in the first place that the incriminating

articles were found in a place in the possession of the person to be convicted. In the next place it must be shown either by direct evidence or by circumstantial evidence from which a reasonable inference can be drawn that the person to be convicted knew that these particular things were in the place where they were found. In the present case the articles were found in the rack in a room occupied by the applicant and his brother. At the time when the search was made they neither made any protest that they had no knowledge of the existence of these articles. Their conduct thereafter was not the conduct of honest men who had no knowledge that the articles were in the house. The mere fact that they produced false witnesses in de fence, and that they have tried to make out that the room in which the articles were found was in the possession of their uncle, seems to me to show quite clearly that they were not honest people who were suffering from the misfortune that somebody else had put the incriminating articles in a room occupied by them.

5. I have no doubt that the applicant knew very well that these coins were in his room and consequently he was rightly convicted. It has been suggested also that he did not know that the coins were counterfeit. Apart from inferences which can be drawn from his conduct, there is the fact that the coins were in various stages of manufacture and there was obviously a deliberate attempt to manufacture counterfeit coin with the intention of uttering them for purposes of gain. I have not the slightest doubt that the applicant was rightly convicted. I reject this application in revision. The applicant shall surrender to his bail.

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