

**Sada Ram Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/469888](http://sooperkanoon.com/469888)

**Court :** Allahabad

**Decided On :** Feb-07-1920

**Reported in :** AIR1920All289; 58Ind.Cas.253

**Judge :** George Knox, J.

**Appellant :** Sada Ram

**Respondent :** Emperor

**Judgement :**

**George Knox, J.**

1. The broad facts of the case out of which this application arises are as follows:--  
The accused Sada Ram borrowed Rs.1,500 from one Sunehra on a registered mortgage-bond of the 26th of March 1914. He borrowed Rs. 500 more from the same man on' a registered bond of the 15th of April 1914. The bulk of the money raised on the first occasion was applied to the re payment of two previous bonds', one of August the 11th 1913 and the other dated the 13th of January 1914. When sued by Sunehra on the two binds of Mar oh and April 1914 Sada Ram pleaded minority. After a prolonged contest it was found that Sada Ram was in fact 'under twenty one years of age when he executed these bonds and that he had not attained majority, because his mother had been appointed his guardian under an order of July the 2nd 1910. It may be noted that in the guardianship certificate the data of Sada Ram's attaining majority (that is to say, completing 21 years of age)

was given as September the 14th 1915. I do not think it is surprising that in the Civil Court proceedings Sunehra should have asserted, and endeavoured to prove that Sada Ram was in fact 21 when he executed the deeds of March and April 1914, but when he had lost his case in the Civil Courts he prosecuted Sada Ram on a charge of cheating. The Magistrate found that Sada Ram had in fact cheated Sunehra by dishonestly concealing from him the fact that his mother had been appointed his guardian and the fact that he had not yet attained the age of 21, also that it was proved against the accused, as a matter of fair inference, that he borrowed this money on each occasion from Sunehra without intending to repay it and with every intention of pleading his minority as soon as a civil suit should be instituted. On these findings Sada Ram has been convicted and sentenced to imprisonment and fine. An appeal against the conviction and sentence was dismissed by the learned Sessions Judge of Meerut in a somewhat brief judgment. The matter has been brought before this Court on a petition of revision.

2. I think it quite clear that it was an admitted fact in the Court below that Sada Ram had not completed 21 years of age when he executed the two bonds in favour of Sunehra. At any rate this fact follows from the statements made by two defence witnesses called on behalf of the accused as well as from the statements of the witnesses for the prosecution. The whole question, therefore, is as to the intention and knowledge of Sada Ram at the time when he borrowed this money from Sunehra. It cannot be presumed against the accused that he knew what would be the legal consequences of the certificate of guardianship obtained by his mother in enlarging the period of his minority. The question is entirely one of evidence and of the inferences warranted by the established facts as to the course of conduct pursued by Sada Ram, from the time when he presented a certain petition in the Court of the Tahsildar of Sardhana on the 2nd of May 1912 down to the execution of the second of the two bonds in connection with which he has been convicted. I have no doubt that the evidence given by the witness Sath Nandu Mal, as to certain transactions which took place on the occasion of the loan taken by Sada Ram from this witness, would be relevant under the provisions of Section 14 of the Indian Evidence Act, as bearing on the intention, knowledge and good faith, or the reverse of the accused in his subsequent transactions with Sunehra. I feel quite satisfied after examining the record that the Magistrate has

drawn correct inferences from the facts proved before him and that the intentions of the applicant, Sada Ram, in his dealing with Sanehra were from the outset dishonest. The case is covered by Illustration (f) to Section 415 of the Indian Penal Code and by the explanation appended to the said section. There is a plea taken against the nature of the sentence imposed by the trial Court. Considering The nature of the offence of which Sada Ram has been found guilty, the consecutive sentence of imprisonment aggregating one year in all cannot be said to err on the side of severity. The trying Magistrate probably thought that he was dealing in the most appropriate manner possible with the case of this young man in sentencing him to a comparatively brief period of imprisonment, but by including sentences of solitary confinement he meant to increase the severity of the punishment and to decrease the period for which the convict would have to associate with ordinary criminals. I am not prepared to interfere either with the conviction or with the sentences passed. I dismiss this application.

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