

**Arjun and ors. Vs. Emperor**

**Arjun and ors. Vs. Emperor**

**SooperKanoon Citation :** [sooperkanoon.com/471235](http://sooperkanoon.com/471235)

**Court :** Allahabad

**Decided On :** Feb-12-1935

**Reported in :** AIR1935All436; 157Ind.Cas.178

**Appellant :** Arjun and ors.

**Respondent :** Emperor

**Judgement :**

ORDER

**Ganga Nath, J.**

1. This is an application in revision by Arjun and four others against their convictions and sentences under Sections 186 and 424. Penal Code, which were confirmed by the learned Additional Sessions Judge of Jaunpur. One Mt. Naurangi Kuar, wife of Ram Raj Singh had obtained a money decree from the civil Court against Arjun cha-mar. She applied for its execution by attachment of Arjun's crops, which were standing in the field. A warrant, of attachment was issued to the Amin on 22nd February 1934 specifying certain plots, the crop of which was to be attached. The Amin was also authorised to attach any other property belonging to the judgment-debtor which may be pointed out by the decree-holder. In execution of this warrant the Amin attached the crop of the plots specified in the warrant and prepared an inventory, (Ex. B). The Amin appointed two Shiahanas to keep watch over the attached crop. On 27th February 1934. the Amin was ordered by

the Court to reap and store the attached crop. The Amin went to the spot on 4th March 1934 and engaged some labourers and started the reaping of the crop. While this was being done the accused who are brothers and cousin' attempted to stop the work but the Amin reasoned with them and they withdrew. After sometime they again returned and began to reap the crop of another plot which had not been attached. As soon as the bundles had been prepared by the labourers of the Amin of the reaped crop, which had been attached, the accused began to throw stones at the Amin and carried away forcibly all the crop that, had been gathered. The amin made a report and the applicants were prosecuted and convicted under Sections 186 and 424, Penal Code. The facts referred to above have been clearly proved by the evidence produced on behalf of the prosecution which has been believed by both the Courts.

2. The only point urged on behalf of the applicants is that the prosecution has not proved that the necessary formalities of attachment, as required under Order 21, Rule 44, Civil P.C. were complied with. The evidence of the Amin who made the attachment is to the effect that he made the attachment. In accordance with Section 114. Evidence Act, when it, is proved that an attachment has been made, in the absence of any evidence to the contrary, it ought to be presumed that all necessary formalities were complied with. In *Mohammad Akbar Khan v. Mian Mausharaf Shah* 1934 P.C. 217 their Lordships of the Privy Council observed:

It is alleged that an attachment of the 250 kanals followed. The Judicial Commissioner in the present case has held that that attachment has not been proved because there was no direct evidence that a copy of the order of attachment was fixed in the Collector's office. Their Lordships are of opinion that there is evidence that the land was attached, and that in the absence of any evidence to the contrary, it ought to be presumed that all necessary formalities were complied with (see Section 114, Evidence Act).

3. There being no evidence to the contrary, as already stated is will be presumed that the attachment was validity made and all the necessary formalities, such as are required under Order 21. Rule 44, Civil P.C. were complied with. The next point urged by the learned Counsel was as regards the severity of the sentence.

The applicants have been sentenced each to pay a fine of Rs. 15 under Section 186 Penal Code, and to undergo three months' rigorous imprisonment under Section 426, Penal Code. Both the offences of which the applicants have been convicted are serious and the sentences are by no means severe. There is no force in the application for revision. It is therefore ordered that it be rejected.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**