

Ram Chand Vs. Emperor

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Court : Allahabad

Decided On : Oct-05-1926

Reported in : AIR1927All147

Appellant : Ram Chand

Respondent : Emperor

Judgement :

Benerji, J.

1. This is an application in revision under the following circumstances:

Ram Chand and two others were charged with having on the 11th of February 1926, cheated Ghurey and certain others of Rs. 8. This amount is said to have been paid because Ram Chand, vaccinator, found rubbish in front of houses of certain men and asked Ghurey to pay up Rs. 8. The learned Magistrate convicted all the three persons, but the Sessions Judge in appeal has acquitted the two patwaris and altered the conviction of Ram Chand from one Under Section 420 of the Indian Penal Code to one under Section 161. I am of opinion, that this conviction cannot stand. It is alleged that the occurrence took place on the 11th of February 1926. Some time in March the present petitioner reported that a number of people in the village in question had collected rubbish in front of their houses. Thereafter certain anonymous letters were sent to the Sub-divisional Officer and a Tahsildar and a Naib Tahsildar made secret enquiries and submitted their reports.

It was not till the 1st of June 1926, that the present complaint was filed. Curiously enough both the Courts below have treated the report of the Tahsildar as evidence and have acted thereon.

2. The Court of first instance, no doubt, gave clear finding about the evidence of the witnesses, but the performance of the learned Sessions Judge appears to me to be very peculiar. He has practically disbelieved the whole of the prosecution evidence with reference to two or more of the accused persons. He has gone on to consider the reports of the Tahsildar and the Naib Tahsildar and peruse the evidence which was called before the Tahsildar. How all that is evidence cannot be explained by the Government Pleader. I am not aware of any provision of law which permits such reports to be used as substantive evidence. After disbelieving practically everything, the learned Judge believes the evidence for the prosecution and alters the conviction of Ram Chand, as I have already stated from one under Section 420 of the Indian Penal Code to one under Section 161. Although it is unusual to look into the evidence in a case in revision and although a finding of fact arrived at by the Court below is not disturbed in revision, in this case the process adopted by the learned Sessions Judge to my mind has vitiated the whole of the proceedings. He has given very good reasons for holding that the witnesses for the prosecution have deliberately fabricated a false case against two of the accused persons. I am unable to accept the evidence of such liars against any one.

3. I set aside the conviction and sentence passed on Ram Chand. He will be released at once.