

Badri Prasad Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/474387

Court : Allahabad

Decided On : Oct-24-1912

Reported in : 17Ind.Cas.797

Judge : George Knox and ;Rafique, JJ.

Appellant : Badri Prasad

Respondent : Emperor

Judgement :

1. Badri Prasad has been convicted of an offence under Section 471 of the Indian Penal Code and sentenced to a term of rigorous imprisonment and payment of a fine. He has appealed. We do not go into the facts of the case in view of the order Which we propose to make. There has been unfortunately in the trial an irregularity which compels us to set it aside and to order a new trial. Badri Prasad was committed to the Court of Session at Mainpuri. The case was transferred by the Court of Session to the Court of an Assistant Sessions Judge. The Assistant Sessions Judge heard the case so far as the evidence was concerned, but did not proceed to judgment on the ground that one of the issues in the case was at the same time awaiting decision under appeal in the Court of the District Judge, and we are told that the case remained pending for a year when it was taken by the Court of Session at Mainpuri sitting at Etawah. The learned Sessions Judge did not hear the evidence at all but proceeded to judgment upon the evidence recorded by the Assistant Sessions Judge. He had no jurisdiction to do this. The

judgment and sentence are a judgment and sentence passed without jurisdiction and must be set aside. We notice a mistake of law, into which the learned Sessions Judge has fallen. He says that it is settled law that in such a case, the accused cannot be convicted at one and the same time of forging a document and using that document as forged and the charges under Sections 467 and 471 must, therefore, be regarded as alternative. We know of no authority to this effect and none has been pointed out to us. It must be distinctly understood that we pronounce no opinion whatever upon the evidence relating to either of these charges. Moreover, we wish to point out that it is most inexpedient for a Sessions trial to be adjourned. The intention of the Code is that a trial before a Court of Session should proceed and be dealt with continuously from its inception to its finish. Occasions may arise when it is necessary to grant adjournments, but such adjournments should be granted only on the strongest possible ground and for the shortest possible period. With these remarks, we allow the appeal so far that we set aside the conviction and sentence and send back the case for trial before the Court of Session at Fatehgarh.