

Jai Jai Ram Vs. Emperor

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Court : Allahabad

Decided On : Feb-21-1919

Reported in : AIR1919All316; 50Ind.Cas.28

Judge : Lindsay, J.

Appellant : Jai Jai Ram

Respondent : Emperor

Judgement :

Lindsay, J.

1. This is an application for revision on behalf of one Jai Jai Ram who has been convicted of an offence under Section 193 read with Section 114 of the Indian Penal Code. The charge against him was, 'that on or about the 4th of April he abetted the fabrication of a false report, Exhibit A, (meant to show that the Halwai could not be identified) inasmuch as he knew it to be a false report, and countersigned it with the intention that it might appear in evidence in a judicial proceeding and might come the Court to form its own opinion about the guilt of Brij Mohan.'

2. In order to understand the nature of the charge against the accused it is necessary to refer to a few facts. On the 4th of April 1918 a woman named Musammat Kesri, who is now dead, went to the Police Station at Tanakpur with

her little girl aged 9 years and complained that the girl had been assaulted by a Halwai whose name she did not know. She described this affair as having taken place four days previously and said that the girl had been bleeding. The report was taken down by head constable Krishnanand and he recorded it in the general diary under Section 323, remarking that the child's mother did not desire to have any medical investigation. It appears, however, that the mother at once took the child to a hospital where she was examined by the Lady Doctor, Miss Butcher. Miss Butcher found that the girl had been raped and sent information accordingly to the Police Station. Later on in the afternoon Musammat Kesri brought a written report, Exhibit A, which is proved to have been written by a man named Hayat Singh and which was admittedly attested by the present applicant Jai Ram. In this Kesri stated that she did not know who the man was who had violated her daughter. She said that the girl had not disclosed what had happened, and that she, (the mother), thought the child was suffering from dysentery. Kesri went on to say that she was unable to identify the person who was responsible for the rape and so was her daughter, and the report concluded with a statement to the effect that no investigation was desired.

3. Sometime after this it came to knowledge that, p. man named Brij Mohan had raped this child; he was tried for the offence, found guilty and sentenced to ten years' rigorous imprisonment. The only solid fact on the record against the accused is the fact that he attested this written report which was brought to the Thana on the afternoon of the 4th of April. It was for the prosecution to prove that Jai Jai Ram knew that this written report was a false report and that he countersigned it with that knowledge and with the intention that the report should be used as evidence in a judicial proceeding. The learned Judge of the Court below has discussed the whole question of the applicant's knowledge at great length, but it seems to me there is no foundation of fact for the conclusion at which the learned Judge has arrived. It cannot be concluded that because this man Jai Jai Ram put his signature to this written report he necessarily knew or had reason to believe that the contents of the report were false. It is not made to appear from any evidence that the contents of the report were read out to him and though it may be a very foolish thing for a man to attest a document of this kind without being made aware of the contents, this indiscretion does not amount to an offence

under the Penal Code. Various other circumstances have been taken into consideration by the learned Judge for the purpose of imputing guilt to the accused. The principal one seems to be that Jai Jai Ram is a near neighbour of the man Brij Mohan who was found guilty of the charge of rape, and so it is assumed that by reason of his living in the neighbourhood he must have been aware that Brij Mohan was the person who committed the rape upon the child, Here again this assumed knowledge has been too readily attributed, to Jai Jai Ram and there is no foundation of fact to justify it. To say that because Jai Jai Ram lives on the other side of the road from Brij Mohan he must necessarily have known that Brij Mohan had committed the rape on this child, is surely going too far. The statement of Jai Jai Ram is that the report was written by a man called Hayat Singh, who asked him as he was passing by to put his name to it and that he did so. There is no evidence on (the record to contradict this statement of the accused and I think in the circa instances the statement is probably a true one. The result is that I find that there is no evidence to support the charge and conviction. I allow the application, set aside the conviction and sentence and direct that the accused be acquitted and released. He is on bail; his bail bond will be discharged.

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