

Raman Lal Vs. Emperor

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Court : Allahabad

Decided On : Nov-24-1926

Reported in : AIR1927All223

Appellant : Raman Lal

Respondent : Emperor

Judgement :

Kendall, J.

1. This is an application for revision of the order of the Additional Sessions Judge of Muttra upholding the conviction of Raman Lal under Section 408 of the Indian Penal Code. The facts of the case are given at length in the learned Judge's judgment. The main point taken on behalf of the applicant is that the trial is vitiated by joinder of charges in respect of eight separate necklaces. The applicant had been accused of committing various offences in connexion with his management of a temple, and one of the complaints against him was that he had stolen eight necklaces, valued at about Rs. 15,000 which had been in the possession of the temple. The Magistrate framed a charge against him to the following effect:

That you on or about the day following Annakut day of Sambat 1977, corresponding to 12th November 1920, at Gokal, being a servant of Mt. Maha Lakshmi Bahuji, committed theft in respect of eight necklaces Valued at Rs. 15,000 which necklaces were in the possession of your employer, the said Maha

Lakshmi Bahuji.

2. And the Magistrate found it to be proved that the applicant had not committed theft on any particular day, but that he had committed criminal breach of trust in a series of transactions. The details of all these transactions have not been fully proved, but in regard to two of them in which the applicant is shown to have pawned two of the necklaces to two different people, the actual misappropriation took place in one case on the 5th February 1922, and in the other on the 21st January 1924. In regard to the other necklaces it is not certain when the misappropriation took place.

3. It is argued on behalf of the applicant that the trial was irregular and offended against the provisions of Sections 234 and 235, Criminal P.C., in that the offences, of which the accused was tried, did not take place within the space of 12 months from the first to the last. It has been argued on the other side that, as only one charge had been drawn, it cannot be said that there was any misjoinder of charges. Technically this is correct. What has happened in this case is that a number of transactions have been joined together in one charge, and these transactions certainly did not take place within the space of one year. Had the charge been framed under Section 408 of the Indian Penal Code, instead of Section 381 of the Indian Penal Code the provisions of Clause (2) of Section 222 would have demanded that the various transactions which made up the charge should have taken place within the space of one year. The offences in regard to these necklaces being one of criminal breach of trust and the transaction in regard to each necklace being apparently a separate one, it would be necessary to charge the accused separately with each offence; for every such offence which is charged must be tried separately, unless the provisions of Section 234 or Section 235, Criminal P.C., will enable the Court to try two or more of the offences at one time.

4. Although it may be said that there was technically no misjoinder of charges, as only one charge was drawn, I consider that the trial vitiated in the same way as if there had been a misjoinder of charges, and this is not a mere irregularity: *Subrahmaniam Ayyar v. King-Emperor* [1902] 25 Mad. 61 and *Kalka Prasad v.*

Emperor [1916] 38 All. 42. I accept the application for revision, set aside the conviction and sentence for the reasons given above, and direct, as the case is one of considerable importance, that it be tried de novo in accordance with law.

5. Sir Charles Alston, who has been arguing the case for the opposite party, has also presented two applications for revision of the orders of the Sessions Judge by which he acquitted the present applicant in two other cases. As a new trial has been ordered in the present case these applications, which are made on behalf of a private party and not Government, are no longer pressed, and they may be dismissed.

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