

Khamani and ors. Vs. Emperor

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Court : Allahabad

Decided On : Aug-06-1925

Reported in : AIR1926All306; 92Ind.Cas.584

Judge : Kanhaiya Lal, J.

Appellant : Khamani and ors.

Respondent : Emperor

Judgement :

Kanhaiya Lal, J.

1. The applicants have been convicted of an offence under Section 500 of the Indian Penal Code and sentenced to pay a fine of Rs. 51 each or in default simple imprisonment for four months. It appears that there was a procession taken out at Bareilly in November last in which various classes of people including some sweepers had joined. One of the persons who joined the procession was Mangli Prasad who belonged to the Bhurji caste. The three petitioners have been found to have told different persons of the same caste that if they associated with Mangli Prasad they would refuse to smoke or drink with them as Mangli Prasad had become a sweeper, by reason of his having shaken hands and associated with sweepers in that procession. It is argued here that the trial Court had no jurisdiction, and that the three accused ought not to have been jointly tried, but none of these points were taken in the Courts below. If there were any substance

in these objections, they would, undoubtedly, have been urged in the Courts below. It is also stated that the statements made were not per se defamatory, and that they were made in good faith and were privileged. The imputation made clearly suggested that Mangli Prasad was not fit to be associated with by reason of his having joined that procession or shaken hands with the sweepers. It cannot, however, be said that if he had done so, he had thereby become a sweeper, and the effect of the imputation must, undoubtedly, have been to lower his position or character in the estimation of his caste fellows. The imputation would have been privileged, if a panchayat of the caste had been held to discuss the matter, and the decision arrived at the panchayat communicated to the persons interested therein; but it has been found that there was no panchayat held to consider the matter, and no decision formally arrived at which would give it the protection claimed. One of the witnesses deposes that all the three accused joined together in warning him that if he associated with Mangli Prasad they would refuse to smoke or drink with him, as Mangli Prasad had become a sweeper. A joint trial under these circumstances is not open to any objection. The application is rejected.