

Mata Prasad Vs. Emperor

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Court : Allahabad

Decided On : Mar-03-1920

Reported in : AIR1920All66; 55Ind.Cas.730

Judge : George Knox, J.

Appellant : Mata Prasad

Respondent : Emperor

Judgement :

George Knox, J.

1. Mata Prasad has been convicted of an offence under Section 420 of the Indian Penal Code and sentenced to imprisonment and fine. From this order which was passed by a Magistrate of the First Class, he appealed to the Court of Session. That Court held that the conviction was a right and proper one. He has come to this Court in revision and contends through his learned Counsel that the order of the Court below is wholly wrong inasmuch as it has put the defence to prove the negative, that the petitioner did not act dishonestly. It appears that one Debi Dayal accompanied by the petitioner went to one Hira Lal. (The judgment of the learned Sessions Judge was so defective in important parts that I departed from my usual rule in revision and looked into the evidence). Upon reading the evidence of Hira Lal it would appear that in the transaction which took place between Mata Prasad and Hira Lal, Debi Dayal played a very important part. He was really the person

who transacted the business between Hira Lal and Mata Prasad. Mata Prasad asked that money might be advanced upon the security of a ring. Hira Lal at first was somewhat suspicious of the transaction and when money was eventually advanced, it was on Debi Dayal's assuring Hira Lal that Mata Prasad was an honest man to whom money may be advanced. If the evidence be carefully scrutinised it is evident what turned the scale in favour of Hira Lal advancing the money was the assurance he received from Debi Dayal. The ring which was said in a loose way to be a gold ring, eventually turned out to be silver covered with gilt, Hira Lal meanwhile had got Mata Prasad to execute a promissory note promising to pay the money advanced to him.

2. The learned Judge in his judgment, taking into consideration that Mata Prasad, so it is said, got money upon other similar rings, held that it was for Mata Prasad to show that he did not know that the rings were not of gold; in other words, he threw the burden of proving his innocence on the accused. In this the learned Judge erred. Before an offence can be established under Section 420 of the Indian Penal Code it is for the prosecution to prove that there had been not only an act of cheating on the part of the accused, but also by that very act of cheating the person cheated was induced to deliver property, and beyond this the prosecution has also to prove that by that act of cheating there was dishonesty which induced the person cheated to deliver property. All these three elements are to be proved by the prosecution. In the present case, as I have already pointed out, the inducement which acted upon the mind of Hira Lal proceeded from the assurance given by Debi Dayal that Mata Prasad was an honest man who could be trusted. I need not go further into the fact whether the dishonesty of the accused was or was not proved, as it was not the showing of the gold ring but the assurance by Debi Dayal which induced Hira Lal to do what he did.

3. I allow the application, set aside the conviction and sentence, and direct that Mata Prasad be at once released from custody and that the fine or any part of it, if paid, be returned to Mata Prasad. Let the ring be returned to the custody from which it was got.