

Emperor Vs. Misri Lal

Emperor Vs. Misri Lal

SooperKanoon Citation : sooperkanoon.com/477776

Court : Allahabad

Decided On : Oct-04-1918

Reported in : AIR1919All394; 50Ind.Cas.1000

Judge : Tudball, J.

Appellant : Emperor

Respondent : Misri Lal

Judgement :

Tudball, J.

1. This case has been refer-red to this Court by the learned Sessions Judge of Mainpuri. The facts are briefly as follows--Misri Lal, a young man, aged about 24 years, a Jain by caste and also a karinda of a Zemindar by profession, cheated the complainant Balkishen, another Bania, and induced him to make over to him a gold chain and two gold rings. He then pledged the' gold chain to another person. What happened to the gold rings is not known. Balkishen made a complaint. Misri Lal was put upon his trial. He put forward an absurd and childish defence. The Magistrate found him guilty. He passed the following order: 'I sentence him to six months' rigorous imprisonment and pay Rs. 150 as fine. The accused is a young man of a respectable family and there is no previous conviction against him. I do not think a jail-life will be suitable for him. Therefore, under Section 562 of the Code of Criminal Procedure instead of sending the accused to jail I order that if the

accused executes a personal bond of Rs. 200, with two sureties of Rs. 500 each for keeping good behaviour for six months, he be released on probation of good conduct. In default of payment of fine the accused is to undergo three months' rigorous imprisonment. Out of the fine, on being realised, Rs. 30 to be paid to the complainant as compensation after the period of appeal.' The accused appealed to the Sessions Judge, who on the facts came to the same conclusion as the Magistrate and dismissed the appeal. He then submitted the record to this Court with a recommendation that the sentence passed by the lower Court be set aside and a legal sentence be passed. It was quite unnecessary for the Sessions Judge to refer this matter to this Court. It was within his power 911 appeal to maintain the conviction and so much of the sentence as was legal and to set aside the illegal portion of the Magistrate's order. As the record, however, is before this Court and notice has issued to Misri Lal to show cause why the illegal part of the sentence should not be set aside and a suitable order passed, I proceed to deal with the case instead of wasting further time by sending it back to the Sessions Judge. It is obvious that Section 562 cannot be applied, because the Court has not only convicted the accused but sentenced him as well. So much of the Court's order as purports to have been passed under Section 562 is, therefore, set aside. There remains the question of sentence. The learned Sessions Judge is of opinion that the sentence inflicted on appellant was in any case very inadequate. It is true that the accused Misri Lal has been guilty of rather a mean act of dishonesty. At the same time it is evident that he is not only young but also very foolish, for he promptly pledged the ornament to another man and his foolish act came to light at a fairly early date. As far as can be seen it is his first false step that he has made and it would not be wrong in the case to temper justice with a little mercy and to give him another chance in life. The present case will probably be a warning to him. The sentence imposed by the Magistrate is rigorous imprisonment for six months plus a fine of Rs. 150. The sentence is one in which a term of imprisonment, however slight, must be imposed. I reduce the sentence of imprisonment from one of six months' imprisonment to one of imprisonment for one day and substitute therefor an additional fine of rupees one hundred (Rs. 100). I further direct that instead of Rs. 33 being paid to the complainant for compensation, this sum be increased to one of rupees fifty (Rs. 50). I allow one

week's further time from the date on which this order reaches the Court below to pay the additional fine. As the accused is present in Court, I detain him in this Court till the rising thereof and thereby it will be unnecessary for him to go to jail to suffer any further punishment.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com