

Khairati Vs. Emperor

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Court : Allahabad

Decided On : Aug-16-1917

Reported in : AIR1918All403(1); 42Ind.Cas.1005

Judge : P. C. Banerji, J.

Appellant : Khairati

Respondent : Emperor

Judgement :

P. C. Banerji, J.

1. The applicant Khairati sold four tins to the complainant Gaya Prasad, which he said contained German dye. One of the tins was opened and was found at the time of the sale to contain genuine dye. Subsequently to his purchase Gaya Prasad opened another tin and found that it contained alum. He bored holes in the other two tins and those tins also were found to contain alum. Khairati was prosecuted and was convicted under Section 420 of the Indian Penal Code. Khairati's defence was that he had purchased the tins at Amritsar in the condition in which he sold them and that he was not aware that three of the tins did not contain German dye. He adduced evidence to prove that he purchased four tins at Amritsar. Of course, the witness could not identify the particular tins but he did prove that four tins which were alleged to contain dye had been sold to Khairati. It is probable that Khairati himself was the victim of a fraud. The learned Sessions

Judge says that it was for him to prove that in selling the tins to Gaya Prasad he did not act dishonestly. I cannot agree with this view. It was for the prosecution to show that Khairati had deceived Gaya Prasad by making a false and dishonest representation. Upon a consideration of all the circumstances it is impossible to say that there was no reasonable doubt as to the guilt of the accused. He was, therefore entitled to the benefit of that doubt. I allow the application, set aside the conviction and sentence and direct that Khairati be at once released. The fine, if paid, will be refunded.

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