

Chandrabhan Lal Vs. Emperor

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Court : Allahabad

Decided On : Jul-29-1935

Reported in : AIR1935All968; 159Ind.Cas.531

Appellant : Chandrabhan Lal

Respondent : Emperor

Judgement :

Bennet, J.

1. This is a criminal appeal on behalf of one Chandrabhan Lal, a patwari, who has been sentenced to one year's R.I. and Rs. 50 fine or in default three months' further R.I. under Section 218, Penal Code, on the following charge:

That you in 1341-F being a public servant as a patwari of Kanak Sarai and as such charged with the preparation of khasra of that village framed the khasra of 1341-F in respect of plots Nos. 396, 397 and 398 in a manner which you knew to be incorrect; i.e. in Col. 8 you did not show the possession of Baijnath which was actually delivered to him by the civil Court Amin on 20th July 1933 in your presence and instead put in cross marks in Col. 8 showing no change with intention of causing loss to Baijnath.

2. The facts alleged for the prosecution are that two brothers Raghunath and Baijnath were members of a joint Hindu family and they made a usufructuary

mortgage of 16 fixed rate tenancy plots to Ramdas, Bhagwan Das and Ramsarup for Rs. 3,000 on 28th June 1926. The mortgagees gave a lease of these plots to the mortgagors who executed a qabuliat. Rent fell into arrears and the mortgagees obtained a decree for arrears of rent and on 29th May 1933, they got ejectment of the mortgagors from these plots and actual possession was given to the mortgagees by order of the revenue Court. Learned Counsel alleges that there was delay in the order of the revenue Court reaching the patwari and it did not reach him until 13th March 1934. That however was a different order and was an order for recording the name of the mortgagees.

3. In addition to the delivery of possession by the revenue Court there was a proceeding in the Civil Courts in which the Munsif's Court granted a decree for some other money to the mortgagors and in execution of that decree the equity of redemption of the mortgagors in these fixed rate plots was attached and sold in auction and purchased by the decree-holders and on 20th July 1933, the mortgagees obtained actual possession of the plots purchased by them in this auction sale with the exception of three plots which were in the possession of some prior mortgagees. Actual possession was obtained by the mortgagees of the three plots 396, 397 and 398 which formed the subject of the present charge. Possession was made over by the civil Court amin on 20th July 1933. Now the accused patwari was present at the time this possession was made over and he signed the 'dakhalnama' and also a compensation statement by which the amin arranged an amount of compensation for the value of the crop which had been sown by the mortgagors. The patwari alleges that he only came at the end of this proceeding and did not understand what it was about. It is also to be noted that even after the order was received by the patwari on 13th March 1934, to record the name of the mortgagees over these plots the patwari did not comply with that order. The point which learned Counsel argues in regard to this is that the patwari thought that because under Rule 98 of the Land Records Manual the rabi partial which began on the 1st January had terminated on 15th February 1934, after that date he was not entitled to make the alteration. This view is quite wrong. under Rule 98, the khasra is completed by the 30th April. The order was received by the patwari on the 13th March and therefore it was his duty to have made the alteration.

4. But the main point against the patwari is that in that rabi partial he made a wrong entry, that is he made certain crosses which indicated that the mortgagors continued their possession and were the cultivators of the crop which was standing on the ground at the time of his partial. under Rule 98, a patwari is responsible for the accuracy of all entries in the khasra and must satisfy himself of the facts by inquiries from the persons concerned as well as by the field inspections. Now in making this entry the patwari must have known that there had been this transfer of the crop by the civil Court amin on 20th July 1933. He was therefore making an entry which he knew to be false. Considerable argument has been made in regard to some remarks in the judgment about the patwari neglecting to report the change of cultivator to the supervisor Qanungo. Such a report would be made under Rule 22, Sub-rule (3). But it does not appear to me that the Court below regarded this matter as the ground for a conviction as this matter is no part of the charge against the patwari. I consider that the patwari made a wrong entry knowing at the time that the entry he was making was wrong.

5. The question is whether he had the criminal intent which would bring the case under Section 218, Penal Code. Learned Counsel suggested that the patwari may have forgotten or may have made a mistake. The circumstances are that in the month of Asarh 1933, when the mortgagee wanted to cultivate these plots he was resisted and a report was made by Baijnath in the thana. The Sub-Inspector apprehending that there might be a breach of the peace came to the spot and in his presence Raghunath and Baijnath, the mortgagees, got these plots in question ploughed and sown. I consider that such a proceeding must have been well within the knowledge of the patwari and that when the subsequent dakhnama was made on 20th July 1933, he must have been well aware that all actual possession and legal title had passed from the mortgagors. The result of the patwari making this wrong entry for the mortgagors was that when the mortgagees went to cut the crop on these numbers on 1st March 1934, there was a riot and the mortgagors were convicted of riot and of causing hurt to the mortgagees. I consider that in view of this circumstance the Court cannot take a lenient view of the conduct of this patwari. By making a false entry he has induced the former tenants to commit a riot; and if such a false entry had not existed they would probably not have endeavoured to resist the mortgagees by force. Under these circumstances the

sentence imposed by the lower Court cannot be considered excessive.

6. Accordingly I dismiss this appeal. The accused must surrender to his bail and undergo the rest of his sentence.

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