

Babu and ors. Vs. Emperor

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Court : Allahabad

Decided On : Nov-30-1925

Reported in : 92Ind.Cas.697

Judge : Sulaiman, J.

Appellant : Babu and ors.

Respondent : Emperor

Judgement :

Sulaiman, J.

1. This is a Reference by the Sessions Judge of Muttra recommending that the conviction of the accused under Section 24 of the Cattle Trespass Act (I of 1871) should be set aside. A report was made by the pound-keeper that the accused had removed a mare from the cattle pound 10 minutes after it had been put into it. The pound-keeper did not make any entry in his register as regards this mare although before he put it into the pound he ought to have made such an entry. The accused was tried summarily and the evidence does not disclose on whose land it had trespassed and who had brought the mare to the pound. On the other hand the accused's statement was that the two accused themselves had brought this mare along with a horse because otherwise they would not have found it possible to bring the horse to the pound. The learned Magistrate in a summary trial has convicted the accused on a finding that they removed the mare out of the cattle

pound without a finding that it had been properly seized. Before a conviction under Section 24 can be sustained it is necessary to prove that the cattle which has been rescued was liable to be seized under this Act. The circumstances of the case are very curious and in the absence of any statement by the pound-keeper or any reference to it in the judgment that this mare had been rightly seized under the Act the conviction cannot be upheld. If the accused themselves had brought their own mare to the cattle pound and after the horse had gone inside they took the mare out no offence was committed. I accordingly accept the Reference and setting aside the convictions and sentences passed on the accused acquit them of the charge and direct that the fines, if paid, be refunded.

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