

Khushi Ram Vs. Emperor

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Court : Allahabad

Decided On : Jan-13-1922

Reported in : AIR1922All83; 67Ind.Cas.338

Judge : Stuart, J.

Appellant : Khushi Ram

Respondent : Emperor

Judgement :

Stuart, J.

1. The facts may be stated briefly. A locked box was in a house in which Kehar Singh, other male members of his family and several women resided. The key of the box was produced by the wife of Khushi Ram, son of Kehar Singh. The box was opened. In the box was stolen property. Khushi Ram was not in the house. On this evidence Khushi Ram has been convicted under Section 411 of the Indian Penal Code. The Sessions Judge considered that these facts justified a finding that the property was in Khushi Ram's possession. I do not think that such an inference can be drawn legally from the evidence. Actual possession was of course with the wife. Can it be presumed that in every case of this kind, the possession of the wife is 'per re' the possession of the husband? I think not. Possession of the wife would frequently be the possession of the husband. In fact, it would usually be the possession of the husband, but there must be something to

connect the husband with the possession more than the mere fact that he is the husband. In this particular case when the house was occupied by members of a joint family including several males and when the husband was not actually on the premises, there is insufficient evidence to justify the conclusion that the husband was in possession of the property. For these reasons, I accept the appeal, set aside the conviction and sentence and direct that the appellant be released.

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