

Khazan Singh Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/482522

Court : Allahabad

Decided On : Mar-26-1935

Reported in : 157Ind.Cas.168

Judge : Kendall, J.

Appellant : Khazan Singh

Respondent : Emperor

Judgement :

Kendall, J.

1. The appellant, Khazan Singh, has been convicted by the Assistant Sessions Judge of Meerut of an offence under Section 368 of the Indian Penal Code and sentenced to five years' rigorous imprisonment and a fine of Rs. 300. Five persons were put on their trial in the Sessions Court on a charge under Section 366-A of the Indian Penal Code, but it was altered to one under Section 368, Indian Penal Code, in that Court as against the accused other than Nos. 1 and 2. The story for the prosecution was that Musammat Tejo was enticed away from her husband in 1931. She was then a girl of about 14, if the finding of the Assistant Sessions Judge that she was 17 when this case was brought into Court is correct. The people who were said to have enticed her on this occasion were Musammat Lachmi and Shib Sahai, and according to the evidence of the girl, Shib Sahai ill-treated her and attempted to persuade her to transfer her land to him. He

afterwards took her away to the house of Hukam Singh, who was also put on his trial, where she stayed for over a year, at the end of which time Shib Sahai, Hukam Singh, Sheo Nath and the present appellant, Khazan, took her away in a motor car and left her in the house of Khazan for three months. Khazan is said to have forcibly kept her during this period 'as a woman'. But one day she managed to unfold her story to a girl, who wrote a letter to Ram Singh, who put the matter in the hands of the Police, and Musammat Tejo was actually recovered from the house of Khazan Singh.

2. Ram Singh claimed to be the brother of Musammat Tejo, but it appears in evidence that he was only a distant cousin, and he has been very prominent in the prosecution of the case. The story about the alleged abduction by Musammat Lachmi and Shib Sahai, and the alleged connection of Hukam Singh and Sheonath with the girl has been disbelieved by the Judge. He did, however, feel that Khazan Singh must be convicted on account of the fact that the girl was actually found in his possession in a room that was locked.

3. It will be seen that if the prosecution story, which attempts to show how the girl was enticed away from her husband and disposed of for over a year, is false, we have no reliable account of the manner in which Musammat Tejo came into the possession of Khazan Singh. His own story is that he had bought her or rather arranged to be married to her in some sort of way, and that he had arranged to pay Rs. 800, for this purpose to Ram Singh, but that as a part of this sum remained unpaid, Ram Singh had caused this case to be instituted against him. Another important circumstance that has come out in the course of the evidence is that the girl owns or owned some land, and that she has now made this over to Ram Singh. It should further be mentioned that the girl's husband did make a complaint of her disappearance in 1931 and that his position in regard to Khazan and Ram Singh is not at all clear. He gave evidence for the defence, in the course of which he stated that Ram Singh had sold Musammat Tejo to Khazan, but this is evidently only hearsay.

4. The question is whether in these circumstances the appellant could possibly be legally convicted of an offence under Section 368 of the Indian Penal Code. He

undoubtedly had Musammat Tejo in his house, but it appears to be very doubtful whether he was really concealing or confining her there. No doubt she said that he was, and so did Ram Singh but the statements of both these witnesses have been almost entirely disbelieved, and indeed it appears almost impossible that Ram Singh should have been unaware that Musammat Tejo was in Khazan's house until he was informed by a letter, which has not been produced, written by an unknown girl, who has not given evidence. Even supposing for the sake of argument that Khazan was concealing or confining the girl in his house, it has certainly not been proved that he knew that she had been kidnapped or abducted. The whole story of kidnapping or abduction has been disbelieved. The account given by Khazan himself of the presence of the girl in his house has, it is true, not been believed by the Judge. But it is not an incredible story, and as the other one has broken down, it is quite possible that it is at any rate partially true. I must hold, therefore, that the case against Khazan Singh has not been made out and that he is entitled to the benefit of the doubt. I therefore allow the appeal, set aside the conviction and sentence and direct that Khazan Singh be acquitted and released. He is on bail and his sureties may be discharged. The fine, if paid, should be refunded.