

Muhammad Husaln Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/484274

Court : Allahabad

Decided On : Sep-25-1924

Reported in : 86Ind.Cas.428

Judge : Mukerji, J.

Appellant : Muhammad Husain

Respondent : Emperor

Judgement :

Mukerji, J.

1. The applicant was put in charge of a boy, below the age of 14, by his father, for the purpose of being taught the Holy Qoran. The father, the boy and the applicant were then at Jaunpur. The father took leave and went away from Jaunpur, where he was serving under the Court of Wards; and the boy remained under the temporary guardianship of the applicant. The applicant, during the absence of the father, took away the boy with him; and the father heard nothing of the boy for several months. At last he made a report to the Police. Later on the father got a letter from the boy addressed from Dehra Dun. He went up and found the boy and the applicant in the same house. The applicant ran away. The boy was brought away by the father. On these facts, the applicant has been convicted under Section 363 of the Indian Penal Code and has been sentenced to undergo one year's rigorous imprisonment and to pay a fine of Rs. 5.

2. The learned Counsel for the applicant has argued that, the applicant himself was the guardian of the boy, and, therefore, there was no taking of the boy out of the keeping of the lawful guardian. I cannot agree with this contention. The guardianship of the applicant was temporary and limited. He was to teach the boy and feed him at his place, with the money supplied by the father. The father never permitted him to take away the boy to Delhi and Dehra Dun without his knowledge. In the circumstances the removal of the boy from Jaunpur amounted to taking the boy out of the keeping of the lawful guardian. I hold that the conviction is right.

3. As regards the sentence I am not disposed to consider it as too severe. The father did not hear of the boy for several months. The boy was left to be taught the Holy Qoran. Instead, he was taken to Delhi to be taught how to paint scenes so that he might join a theatrical company. This must have been a matter hateful to a Muhammadan father, who would like his son to know the Qoran.

4. The application is rejected.