

**Mula Vs. the State**

**Mula Vs. the State**

**SooperKanoon Citation :** [sooperkanoon.com/754770](http://sooperkanoon.com/754770)

**Court :** Rajasthan

**Decided On :** Apr-12-1950

**Reported in :** AIR1950Raj42; 1950CriLJ1284

**Judge :** Oak, J.C.

**Appellant :** Mula

**Respondent :** The State

**Judgement :**

Oak, J.C.

1. This is a jail appeal by Mula, who has been convicted by the learned Additional District Magistrate of Ajmer Under Section 210/213, Penal Code, and has been sentenced to rigorous imprisonment for seven years. According to the prosecution, Mula appellant met one Ramkaran Singh at Beawar. The accused Bhowed Bamkaran Singh Bs. 20 in coins, and offered to exchange them. Bamkaran Singh took those coins from the accused, and gave him other coins in exchange. When Bamkaran Singh proceeded to make some purchases it was found that, the coins obtained from the accused were counterfeit. When Bamkiahen Singh tried to question the accused on the point, the accused tried to run away. He was pursued, was arrested, and made over to the Police. 'When his person was searched, a few more counterfeit coins were recovered from his possession. The accused was prosecuted under 3. 240, Penal Code for delivering counterfeit coins.

The accused pleaded not guilty. He denied having given the rupees in dispute to Ramdaras Singh. The recovery of other coins was also not admitted. According to the prosecution, the accused has several previous convictions under chap. 12, Penal Code. The accused denied the the alleged previous convictions. The learned Additional District Magistrate held that, the accused possessed counterfeit coins on 6th June 1919 and passed them on to Ramkaran Singh. It was further held that, the accused had previous conviction under Chap. Ia, of the Code. The accused was therefore convicted Under Section 210/343, Penal Code, and sentenced to rigorous imprisonment for seven years, (After discussing the evidence the learned J. O. proceeded.) The accused was therefore properly convicted Under Section 210/243, Penal Code.

2. The appeal was admitted on the question of sentence only. The learned Magistrate has not referred to Section 75, Penal Code in his judgment. But obviously he has taken into consideration the alleged previous convictions in passing the sentence. P.W. 7 is a Finger Print, Expert who proved that, finger prints of Mulla accused tallied in all respects with the finger prints on the slips in his office. There were some notes about previous convictions of those persons.

3. Section 611, Criminal P.C. lays down the method for proving previous conviction Clause (a) of Section 611, Criminal P.C. deals with a certificate issued by an officer in charge of the court record room. Clause (b) of the section deals with a certificate issued by a jail officer. In the present case, the prosecution filed a document -mentioning certain previous convictions of certain persons. The document on the record is neither a certificate issued by an officer in charge of the Court record room nor a certificate issued by a jail officer. The prosecution did not prove previous convictions of the accused as provided in Section 611 Criminal P.C. Mere evidence of identity of the accused with some [other person previously tried is not enough. Previous conviction has to be proved as laid down in Section 611, Criminal P.C. The accused denied all the alleged previous convictions. The prosecution was therefore bound to prove the previous convictions as provided by law. The evidence of the Finger Print Expert and the documents filed by the prosecution are not sufficient for proving the alleged previous convictions.

4. The case has therefore to be decided on the assumption that, there is no previous conviction. The sentence passed upon the accused must therefore be substantially reduced. I uphold Mula's conviction Under Section 240/243 Penal Code but reduce the sentenced to rigorous imprisonment for two years.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**