

In Re: P. Rama Naidu

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Court : Chennai

Decided On : Aug-27-1941

Reported in : AIR1942Mad92; (1941)2MLJ746

Appellant : In Re: P. Rama Naidu

Judgement :

Horwill, J.

1. The appellant was admittedly an attestor to a forged document. There had been litigation between P. W. 9 and the 9th accused and P. W. 9 had obtained a decree against the 9th accused for maintenance. The forged document purported to be a discharge of that decree debt.

2. The appellant admits that he was an attestor, and the evidence shows that he knew of the litigation between the parties. The writer of the document turned approver and was examined as P.W. 3. He states that at the time when the document was forged, a blank space was left for the attestation of some other person and that when he saw the document again, that space was filled by the signature of the appellant. The appellant did not deny this but explained:

I was in my field in Nalagampalle. I did not see the payment of any money. I said 'How can I sign when I have not witnessed the payment?' He (Lingama Naidu, the 1st accused) said, 'She has affixed her thumb impression. The witnesses have all signed. Can you not trust me?' I then believed him and signed.

3. This statement itself suggests that the appellant was somewhat suspicious of the document. It is clear from the evidence that he knew of the suit that had been brought and that he was sufficiently nearly related to the parties to be interested in bringing such a document into existence in the interests of the first and the ninth accused in support of whom he had already deposed in the maintenance proceedings. On these facts, I think that the learned Judge was justified in coming to the conclusion that the appellant was guilty of forgery and of fabricating a false document.

4. The judgment of Pandrang Row, J., in *Chinna Veera Reddi and others v. Emperor* 1939 M.W.N. CrL. 86 has been referred to as providing an instance where a learned Judge of this Court thought that the bare fact of an attestation was not sufficient to justify an inference that the attestor knew that he was attesting a forged document. The learned Judge had however other facts before him besides the mere fact of attestation, and he quoted the judgment of the trial Judge to show that it was improbable that the attestor had the knowledge imputed to him.

5. Mr. Jayarama Aiyar has also argued that as a receipt does not need attestors, the receipt was complete before the appellant signed it, and that he therefore could not be said to have abetted the making of a false document. The fallacy of this argument is that although attestation was not necessary, the persons who brought this document into existence intended that it should be attested and that the appellant should be one of the attestors. The document was therefore not complete until the appellant had signed. He therefore abetted the making of a false document, and as he must have known that the document was intended to prove the discharge of the decree debt, he was also guilty under Section 193 of fabricating false evidence. The conviction is right and the sentence extremely light. They are therefore affirmed and the appeal is dismissed.