

**The King-emperor Vs. Lal Bage**

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**SooperKanoon Citation :** [sooperkanoon.com/793592](http://sooperkanoon.com/793592)

**Court :** Chennai

**Decided On :** Oct-08-1917

**Reported in :** (1918)ILR41Mad465

**Judge :** Phillips and ;Krishnan, JJ.

**Appellant :** The King-emperor

**Respondent :** Lal Bage

**Judgement :**

**Phillips, J.**

1. The prosecution case is that prosecution first witness paid three annas to accused as 'mamul.' The demand of the 'mamul' is spoken to not only by prosecution first witness but also by prosecution second witness, and the payment of the money was witnessed by prosecution fourth witness, the Circle Inspector. The Sub-Magistrate who tried the case believed these witnesses, and there is certainly no reason, in our opinion, for disbelieving prosecution first witness, who made his statement to the Inspector at the earliest opportunity. Accused's story is that he paid three annas to prosecution first witness as earnest money for purchase of a goat, and that prosecution first witness returned the money as he withdrew from the bargain. Defence witnesses Nos. 1 to 3 are examined in support of this story, but the prosecution witnesses were not cross-examined as to their presence at the scene of offence and the Sub-Magistrate has given good reasons

for rejecting their evidence. On the facts we think the Deputy Magistrate has paid too little regard to the opinion of the Magistrate who heard the evidence, an opinion in which we entirely agree.

2. As regards the point of law the Deputy Magistrate considers that all the elements necessary to constitute an offence under Section 46 of the Police Act are not established. The mere demand of a 'mamul' or customary payment made in order to obtain the favour of the official demanding it is itself a threat and consequently the obtaining of money by such a demand comes within Section 46 of the Police Act. In this case we have also the evidence of prosecution first witness that he paid as the police were troubling him and in Exhibit A he says the police threatened to take him to the police station. We therefore restore the conviction by the Sub-Magistrate under Section 46 of the Police Act and confirm the sentence of imprisonment, but reduce the fine to Rs. 15.

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