

In Re: E. Raman Chettiar

In Re: E. Raman Chettiar

SooperKanoon Citation : sooperkanoon.com/795486

Court : Chennai

Decided On : Aug-24-1926

Reported in : (1926)51MLJ635

Appellant : In Re: E. Raman Chettiar

Judgement :

ORDER

Jackson, J.

1. Petitioner seeks to cancel the charge framed by the Sub-divisional Magistrate of Tanjore in C.C. No. 2 of 1926 on the ground that the Sub-divisional Magistrate has no territorial jurisdiction to try the offences in the aforesaid charge.
2. The petitioner is charged firstly that at Coonoor he induced one Krishna Aiyar to write bogus telegrams, the offence under Sections 468 and 109, Indian Penal Code, and secondly, that he attempted to cheat one Palaniappa Chettiar by causing the dispatch of telegrams at Tanjore, the offence under Sections 420 and 511, Indian Penal Code.
3. The facts on which the charge is based are that the petitioner at Coonoor gave the telegram for dispatch from Tanjore to one Jambulingam Asari. The petitioner contends that any attempt to cheat that he may have made was complete when he gave the telegrams to Jambulingam at Coonoor; and he did nothing afterwards in Tanjore which could be held to be an attempt.

4. The Public Prosecutor in reply argues that the only act which could be described as an attempt was the dispatch of the telegrams, and this petitioner did through his agent Jambu lingam. Giving the telegrams to the agent at Coonoor was only preparation. It is very difficult to draw the line between preparation and attempt. In the matter of the petition of Riasat Ali I L R (1881)C 352 the opinions of two very eminent English Judges are cited, and it is not very clear on what grounds Knox, J. brushes them aside in In the matter of the petition of R. MacCrea I L R (1893) A 173 as having no bearing upon the Indian statute. Lord Blackburn says ' if the actual transaction has commenced, which would have ended in the crime if not interrupted, there is clearly an attempt to commit the crime. ' Cockburn, C.J. says 'the word ' attempt' clearly conveys with it the idea that if the attempt had succeeded the offence charged would have been committed.

5. In the matter of the petition of R. MacCrea I L R (1893) A 173 deals with a case of cheating, and Knox, J., remarks at page 179 that acts are attempts if they are acts committed for the purpose and with the intent to bring preparations to bear upon the mind of the person to be deceived.

6. It seems clear from these pronouncements that in the offence of cheating the actual transaction must have begun, and an act to bear upon the mind of the victim must have been done before a preparation can be said to be an attempt.

7. In the present case the actual transaction did not begin until the telegrams were dispatched nor until that dispatch was any act done to bear upon the mind of the person deceived.

8. Neither writing the telegrams nor giving them to a messenger for dispatch can be said to have been the actual transaction in the sense in which Lord Blackburn used 'actual transaction' though such a preparation may be part of the same transaction, in the sense in which transaction without the qualifying adjective ' actual ' is used in Section 235, Criminal Procedure Code.

9. Assuming therefore that the petitioner caused the dispatch of the telegram at Tanjore, the Tanjore Court should have jurisdiction and there is no reason to interfere.

10. The petition is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com