

In Re: theophilus Ramappa

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Court : Chennai

Decided On : Nov-07-1911

Reported in : 13Ind.Cas.108; 13Ind.Cas.108; (1912)22MLJ112

Judge : Ralph Benson and ;Sundara Aiyar, JJ.

Appellant : In Re: theophilus Ramappa

Judgement :

ORDER

1. The accused, who was the superintendent of Messrs. Killick Nixon's Coffee Casing Works has been convicted of criminal breach of trust by misappropriating a large sum of money made up of amounts which he received from the Manager at various times on the false pretence that they were required for paying coolies who garbled coffee. The point argued in revision is that the receipt of each sum of money making up the aggregate amount by false representation amounted to the offence of cheating; that the charge against the accused really was that he committed various offences of cheating more than three in number, and that a single charge for all these acts of cheating was illegal. It is urged that the subsequent appropriation of the amounts by the accused to his own use would not amount to criminal breach of trust as the criminal intent was present at the time of the receipt of the money from the Manager. This argument is not sound. When the accused received the money he did so as a servant of the Company for the express purpose of using it for his master's benefit in a particular way. He was, therefore, entrusted with the money, and his appropriating it to himself clearly

amounts to criminal breach of trust.

2. Dr. Swaminadhan relied on the case of Queen v. Hamilton Thompson 32 L.J.M.C. 57 where, in similar circumstances, it was held that the offence committed was not larceny; but that case was disapproved of in the latter case of Queen v. Cooke 40 L.J.M.C. 68 where it was pointed out that the earlier case merely held that the accused received money by false pretences, but the question whether his subsequent retention of it would amount to larceny was not considered. We are of opinion, therefore, that the conviction is right. We ought to observe that, in our opinion, Counsel ought to have brought to our notice the later decision, which weakened the case relied on by him. The petition is dismissed.

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