

Rangayya Vs. Somappa

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SooperKanoon Citation : sooperkanoon.com/813210

Court : Chennai

Decided On : Feb-28-1924

Reported in : AIR1925Mad367

Appellant : Rangayya

Respondent : Somappa

Judgement :

ORDER

Venkatasubba Rao, J.

1. The facts as set forth in the charge do undoubtedly constitute an offence under Section 420, Indian Penal Code. Objection to jurisdiction was taken by the accused on the ground that the offence was not cognisable by a Second Class Magistrate and the objection was again pressed in appeal. It was overruled, the reason given being that there is no distinction between Sections 417 and 420. This is of course clearly wrong. Section 415 defines cheating. It consists of two parts : (1) fraudulently or dishonestly inducing the person deceived to deliver any property or to consent that any property shall be retained; (2) intentionally inducing the person deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived, if the act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.

2. Section 417 deals with cheating generally; but Section 420 deals with that species of cheating which involves delivery of property or destruction of valuable security. Section 417 prescribes punishment for simple cheating and Section 420 lays down the sentence for the aggravated form of the offence. An offence under Section 417 is triable by a Magistrate of the Second Class whereas that under Section 420 is not so triable. The distinction was ignored by the lower Courts. In High Court Proceedings 20th October, 1885 No. 517 2 Weir 21 the learned Judges observe thus : 'But the doctrine that no Tribunal can properly clutch jurisdiction by intentionally ignoring facts of aggravation which make the offence really cognizable only by a higher Tribunal still holds good, and where the accused has himself objected to the jurisdiction, it is possible that the High Court would feel itself bound to interfere ; that it is not) then a mere matter of discretion even with the High Court whether the conviction should be allowed to stand.'

3. With respect I follow the decision and hold that the Second Class Magistrate had no jurisdiction to deal with the case.

4. Apart from this, I must say that the accused has been unnecessarily harassed. If technically he was guilty of cheating, the punishment inflicted is out of all proportion to the offence. I cannot help remarking that the conduct of the complainant, the Reddy, is open to grave reproach. He dealt with public monies as if they were his own, kept back the complainant's brass vessel and indulged in vile abuse.

5. The sentence and conviction are set aside and the order of compensation is also reversed.