

**Jameson and Co. Vs. Scott**

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**SooperKanoon Citation :** [sooperkanoon.com/855285](http://sooperkanoon.com/855285)

**Court :** Kolkata

**Decided On :** Nov-10-1908

**Reported in :** (1909)ILR36Cal291,1Ind.Cas.972

**Judge :** Harington, J.

**Appellant :** Jameson and Co.

**Respondent :** Scott

**Judgement :**

**Harington, J.**

1. This is an action by the drawer of a bill of-exchange against the acceptor. It is admitted that the bill was accepted by the defendant and that it was dishonoured at maturity. The bill was drawn to the order of the plaintiff and was indorsed by the plaintiff to the order of Cox & Co. On the back of the bill there appears a further indorsement purporting to be made by Cox & Co. in favour of the Allahabad Bank, but as to that indorsement no evidence of any sort has been given and so far as the case stands the drawer indorsed the bill to the order of Cox & Co. It has also been proved that Cox & Co. discounted the bill and credited the plaintiff with the proceeds, and when the bill was dishonoured Cox & Co. debited the drawers' account with the amount of the bill. It has also been proved that after dishonour and after the account of the drawer had been debited with the amount of the bill, the bill was returned to the drawer by Cox & Co. Under these circumstances the

defendant says that the plaintiff has no right to recover, because the bill was indorsed to Cox & Co. or order, and Cox & Co. have not indorsed it back to the plaintiff. The answer, I think, is that the plaintiff is suing by virtue of being a party to the bill and is suing the acceptor on the contract contained in the bill between himself and the acceptor. From the fact that the drawer's account was debited with the amount of the bill and the bill was sent back to the drawer, I infer that Cox & Co. returned it to the drawer as a bad bill and left the drawer to take any course they thought proper with regard to it, they having protected their loss by debiting the drawer's account with the amount.

2. Under these circumstances, is the drawer entitled to sue the acceptor? He has possession of the bill. The bill expresses what the acceptor agreed to do as between himself and the drawer. In my opinion the drawer is entitled to sue the acceptor, who has failed to carry out the agreement he entered into under the terms of the bill. It has been argued that, if the holder of a bill is entitled to sue the acceptor, the result would be that, if the bill now got back into the hands of Cox & Co., they, as indorsees, would still be entitled to sue the acceptor. I do not think that argument is well-founded and for this reason: They would have no greater rights on the bill, if they took it now, than the person from whom they got it; and if they took it from the plaintiff, who had sued for and recovered judgment on the bill they would not be entitled to recover from the acceptor. The result is there must be judgment for the plaintiff for the amount shown on the bill. There will be interest on the bill from the 28th September 1907 at 6 per cent, and interest on decree at 6 per cent. The defendant must pay the plaintiff's costs.