

Abdul Aziz Vs. Emperor

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Court : Kolkata

Decided On : Jan-13-1931

Reported in : AIR1932Cal557,137Ind.Cas.317

Appellant : Abdul Aziz

Respondent : Emperor

Judgement :

Rankin, C.J

1. In this case, the two grounds upon which the rule was issued have reference to the admissibility of a certain postcard which was sent by Abdul Latif--one of the accused to a woman of the name of Kamala. The question whether this evidence is admissible so far as regards Abdul Aziz, the petitioner before us, depends upon whether) or not the provisions of Section 10, Evidences Act, have been complied with; in other words, whether there is reasonable ground to believe that Abdul Latif and this petitioner conspired together to commit an offence. If there is reasonable ground to believe it, then that lets in the postcard and whether, in the end, the finding of the Court is to be that there was a conspiracy is a question which is to be determined after considering the postcard. I would point out that it will not do to say that because certain accused have since been acquitted, that is to say, since it has been held that there was not enough evidence to convict them of conspiracy, there is no reasonable ground to believe that these persons--Abdul Latif and Abdul Aziz--conspired with them within the meaning of Section 10. The two things are

different. In the present case, so far as the petitioner is concerned I am of opinion, upon reading the judgement of the Sessions Judge, that it is quite impossible to hold that there was no reasonable ground to believe conspiracy within the scope of Section 10. As regards the point that the accused Latif was under arrest at the time when he caused the postcard to be written that would be a very important point if the document was in the nature of a mere confession. But that is not the position here. The position here is that the contents of the postcard show that this man is endeavouring to get the petitioner to come to his rescue and is dealing with a sum of some Rs. 30,000 said to be the subject-matter of the conspiracy. On the whole, I am of opinion that it cannot be made out that the postcard was inadmissible and in this view, the rule must be discharged. The petitioner who is on bail must surrender to his bail-bond and serve out the rest of the sentence imposed on him.

Graham, J.

2. I agree.

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