

Abdul Hamid Vs. the Empress

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Court : Kolkata

Decided On : Sep-07-1886

Reported in : (1886)ILR13Cal349

Judge : Mitter and; Grant, JJ.

Appellant : Abdul Hamid

Respondent : The Empress

Judgement :

Mitter and Grant, JJ.

1. The learned vakeel for the appellant has not contested the finding of the Sessions Judge, but has contended that upon that finding the Sessions Judge ought not to have held that the appellant made a false document within the meaning of Section 464 of the Indian Penal Code in respect of documents X, C, and K, which formed the subject of the charges framed against the appellant. The facts of the case are these: The third clerkship in the Sub-Divisional Office at Budruck having fallen vacant, an application, purporting to have been made by the appellant who was a copyist in that office, reached the Collector of Balasore applying for the post. At the foot of this application there was an endorsement, purporting to have been made by the Sub-Divisional Officer of Budruck, recommending the applicant for the post. The document marked X is the endorsement in question, and it has been found to have been falsely made by the

appellant. The document marked C purports to be a letter from the Collector of Balasore to the Sub-Divisional Officer at Budruck, informing the letter officer that he, the Collector, had selected the appellant for the vacant post. This is also found to have been fabricated by the appellant. A suspicion having arisen in the mind of the Sub-Divisional Officer of Budruck as to the genuineness of this document, he wrote a demi-official letter to the Collector of Balasore to ascertain whether the document marked C was genuine. This letter was posted in the local post office. The appellant having got an inkling of this fact fabricated a letter purporting to be written by the Sub-Divisional Officer to the address of the Postmaster, asking him to stop the despatch of his demi-official letter. This document is marked K, and it has been also found that it was fabricated by the appellant. The appellant has been found guilty of forgery in respect of all these three documents, and has been sentenced by the Sessions Judge to three years rigorous imprisonment, that is to say, rigorous imprisonment for one year in respect of the forgery of each of these three documents. It has been found, and it is clear, that the object of the appellant in fabricating two of these documents was to obtain the vacant clerkship by deceiving the Sub-Divisional Officer of Budruck and the Collector of Balasore. Upon these facts it was contended before us that, under Section 464 of the Indian Penal Code, the appellant could not be held to have made a false document in any one of the three instances mentioned above. The contention of the learned vakeel is that, although he fabricated these documents, still it cannot be said that he fabricated them either dishonestly or fraudulently within the meaning of the definitions of these two words given in Sections 24 and 25 of the Indian Penal Code.

2. We are of opinion that this contention is not sound as regards the documents X and C. Whether or not, under the circumstances mentioned above the appellant may be said to have fabricated these two documents 'dishonestly,' it is clear to us that he fabricated them fraudulently within the meaning of the definition of that word given in the Indian Penal Code. As already remarked, his object was to obtain the vacant post in the Sub-Divisional Office at Budruck. His intention, therefore, in making these two false documents was to obtain some pecuniary advantage by deceiving the Sub-Divisional Officer as well as the Collector. In fabricating X his intention was to deceive the Collector of Balasore; in fabricating C

his intention was to deceive the Sub-divisional Officer of Budruck. He, therefore, made these two documents falsely with a view to deceive the Collector of Balasore and the Sub-Divisional Officer of Budruck respectively, and with the intention of gaining a pecuniary advantage by securing his appointment to the post which was vacant in the Sub-Divisional Office of Budruck. That being so, we think that he made these documents fraudulently within the meaning of Section 25 of the Indian Penal Code. But, as regards K, we are of opinion that the contention of the learned vakeel is correct. The intention with which the appellant made this false document was evidently to screen himself from detection of the fraud which he had already committed by fabricating the documents X and C. That being the intention with which K was fabricated, it cannot be said that he made that document falsely either 'dishonestly' or 'fraudulently.' His intention was not to cause any wrongful loss to another or wrongful gain to himself, or to derive some pecuniary advantage to himself. The conviction, therefore, as regards K must be set aside, but the convictions as regards X and G will stand. Having regard to the gravity of the offence committed by the appellant we are of opinion that no lighter sentence than the one awarded by the Sessions Judge would meet the ends of justice. We, therefore, sentence the appellant to two years rigorous imprisonment in respect of the forgery of X, and leave the sentence as regards C unaltered.

3. The result is that the cumulative sentence of three years rigorous imprisonment awarded by the Sessions Judge will stand.

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