

(1917) 09 AHC CK 0005

Allahabad High Court

Case No: None

Emperor

APPELLANT

Vs

Badri Prasad

RESPONDENT

Date of Decision: Sept. 24, 1917**Citation:** (1918) ILR (All) 35**Hon'ble Judges:** Pramada Charan Banerji, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

Pramada Charan Banerji, J.

The applicant Badri Prasad has been convicted of fabricating false evidence as defined in Section 192 of the Indian Penal Code and has been sentenced u/s 193 of that Code to three months' rigorous imprisonment. Badri Prasad was a clerk employed by the Naraini Estate, which is in charge of the Court of Wards, and one of his duties was to register sales of cattle at the Naraini market. On, the 21st of March, 1917, two persons, Riyayat and Arman, were carrying away twenty-six head of cattle. While they were passing Bisenda police station the sub-inspector stopped them and wanted them to produce the receipts which they had obtained as to the registration of the date of the sale of the cattle. They produced 19 receipts but they had none as regards the remaining seven head of cattle. On the 27th of that month, they produced seven receipts bearing date the 21st of March, 1917. These receipts had in fact been prepared by the accused on the 27th, but they were dated, as I have said above, the 21st of March. It has been proved that the seven head of cattle were in fact purchased by Riyayat and Arman on the 21st of March at the market, but, for some reason which does not appear, probably through oversight, receipts were not granted in regard to them. The accused was sent up for trial for an offence u/s 218 of the Indian Penal Code. But as he was not a public servant he could not be convicted under this Section. The learned Magistrate, however, convicted him u/s 193, he being of opinion that in preparing the seven receipts Badri Prasad had

fabricated false evidence. The offence of fabricating false evidence is defined in Section 192. The ingredients of the offence are, that circumstances should be caused to exist, or a false entry should be made in any book or record, or any document containing a false statement; that such circumstances, false entry or false document should be made with the intention that it may appear in evidence in a proceeding taken by law before a public servant, and so appearing in evidence may cause such public servant to entertain an erroneous opinion touching any point material to the result of the proceeding. The proceeding which the sub-inspector, who is a public servant, was holding was one for the purpose of ascertaining whether the cattle had been purchased at the market by the two men who were carrying them or whether they were stolen property. The receipts which were granted by the accused to the purchasers of the cattle could not possibly cause the sub-inspector to entertain an erroneous opinion touching a point material to the result of the inquiry he was making. He was satisfying himself whether the cattle were stolen property and these receipts, so far from causing him to entertain an erroneous opinion as to whether the cattle had been sold or not, might have caused him to form a correct opinion on the point. One of the principal ingredients of the offence of fabricating false evidence was therefore wanting in this case. This being so, the offence of fabricating false evidence was not committed by the accused and he could not be criminally punished u/s 193 of the Indian Penal Code. His conduct in granting receipts subsequently to the date of the actual sale or in making alterations in his register was no doubt reprehensible, but it did not constitute a criminal offence for which he could be convicted. I accordingly allow the application, set aside the conviction and the sentence, and acquit Badri Prasad of the offence of which he was convicted. The bail-bond furnished by him is cancelled.