

Queen-Empress Vs Rahat Alikhan

Court: Allahabad High Court

Date of Decision: Nov. 30, 1886

Citation: (1887) ILR (All) 210

Hon'ble Judges: John Edge, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

John Edge, Kt., C.J.

By Section 16 of the Stamp Act, 1879, it is provided that "all instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

2. Sections 17 and 18 provide for the stamping of documents executed or drawn out of British India.

3. It appears to me that the first paragraph of Section 11 applies to cases in which the instrument chargeable with duty may be stamped after execution.

4. The receipt to the salary bill in question in this case was an instrument which required to be stamped before or at the time of execution, and was

not an instrument contemplated by the first paragraph of Section 11. I am consequently of opinion that there was no abetment of any offence under

Sections 11 and 62 of the Act.

5. The offence which appears to have been committed was one under the second paragraph of Section 61. As it does not appear that any sanction

was given u/s 69 by the Collector for a prosecution u/s 61, I do not consider it advisable to interfere further than by setting aside the conviction u/s

109 of the Penal Code and Section 62 of the Stamp Act, and directing that the fine, if realized, be refunded. It does not appear to me that Rahat

Ali Khan contemplated the commission of any offence.