
(1877) 04 AHC CK 0004

Allahabad High Court

Case No: None

The Empress of India

APPELLANT

Vs

Rameshar Rai

RESPONDENT

Date of Decision: April 23, 1877

Citation: (1875) ILR (All) 379

Hon'ble Judges: Spankie, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Spankie, J.

It is admitted that the pins were stolen property. It was brought home to the prisoner, Rameshar Rai, that he had voluntarily assisted in concealing, or disposing of or making away with this property which he knew, or had reason to believe, to be stolen property, and he was punished for this offence. He also is found to have concealed the property in the field of one Sedan, an enemy of his own, with a view that it might be found in his (Sedan's) house and field, and that he might be apprehended and charged with the theft. There is also a strong presumption that he instigated one Bhagi to conceal pins in Sedan's house. It is argued that if the disposal of the property was committed with the object of placing it, or causing to be placed, in Sedan's field to bring him into trouble, one offence only and not two distinct offences were committed. But I cannot accept this view of the case. It may be that the Magistrate was of opinion that there was not sufficient evidence to show that the offence fell u/s 411, viz., that there was a dishonest receiving of stolen property within the meaning of the word "dishonesty"* as defined in the Penal Code. He therefore applied Section 414. In the commission of an offence under this section, it is sufficient that the accused be proved to have voluntarily assisted in concealing, disposing of, or making away, with property, which he knew, or had reason to believe, was stolen property. The fact that he did so, convicts him of an offence against property under chapter xvii of the Penal Code. He may then, or at the time, have entertained the idea that by placing it where he did, he would cause evidence to be found

whereby he hoped that Sedari might be convicted of the theft of the property so concealed by him. But he nevertheless committed an offence u/s 414 of the Code against the property. Also he fulfilled the condition of the offence as defined in that section. It did not matter where he concealed it. He should not have concealed it at all, or caused it to be concealed voluntarily, either in Sedan's house or land, or elsewhere, if lie knew or had reason to believe that it was stolen property.

2. In concealing it as lie did in Sedan's field, with the intention found by the Magistrate, the prisoner committed another and distinct offence against public justice under chapter xi of the Penal Code, as he intentionally fabricated false evidence to be used in a judicial proceeding. He was punished u/s 193. The offence possibly was one more nearly coming u/s 195 of the Penal Code. There could be no doubt that in hiding the pins in Sedan's field intending that they might be found and that the circumstance of their being found in Sedan's field might appear in a judicial proceeding, and that this circumstance might lead the Magistrate to believe that lie, Sedari, had been connected with the theft, u/s 192 would be and is fabricating false evidence, and is a distinct offence from the offence of voluntarily assisting in disposing of the stolen property. I see no reason to interfere, and dismiss the petition.

-----Foot Note-----

* Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person is said to do that thing dishonestly.