

(1869) 03 CAL CK 0034

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Luthi Bewa and Others

RESPONDENT

Date of Decision: March 31, 1869

Judgement

Norman, J.

The prisoner, Luthi Bewa, has been convicted, u/s 419 of the Indian Penal Code, of the offence of cheating by false personation, and sentenced to one year's rigorous imprisonment; and the prisoners, Anand Mohan and Becharam, have been convicted of abetting the offence, and sentenced to eighteen months' rigorous imprisonment. On the application of the vakeel for the prisoners, the record of the case was sent for u/s 404 of the Criminal Procedure Code. The prisoners were tried by the Joint Magistrate of Dacca, and the conviction of the Joint Magistrate was upheld on appeal by the Judge. We, therefore, taking up the case as a Court of revision must take the facts as found by the Lower Court.

2. It appears that one Kumari, having agreed to sell a small piece of land, started with three persons in a boat for Dacca for the purpose of registering the deed of conveyance. According to the finding of the Lower Courts, on arriving at Dacca, Kumari was too ill to leave the boat; and Luthi, who accompanied her to Dacca in the boat, went with the other two prisoners to the office of the Registrar, and there personated her, and had the deed registered in her name.

3. We think there is nothing to show that the prisoners intended to defraud or injure any body in putting forward Luthi to personate Kumari, and do an act which, doubtless, Kumari would have done, had she not been prevented by illness from going to the office of the Registrar in person. We think, therefore, that the prisoners should not have been convicted of cheating by false personation u/s 419 of the Indian Penal Code. The offence which they committed, was an offence u/s 93¹ of Act XX of 1866. We therefore, quashing the conviction, as a conviction u/s 419, substitute a conviction u/s 93 of Act XX of 1866 against the prisoner Luthi for falsely

personating Kumari, and a conviction u/s 94 against Anand and Becharam for abetting the offence. Under all the circumstances of the case, we think a slight sentence only is called for, and, therefore direct the prisoner Luthi to be imprisoned for four calendar months, and the prisoners, Anand and Becharam, for six calendar months to be reckoned from the day of the Joint Magistrate's order, viz., the 15th of December last.

Penalty for false personation.	Sec. 93:--Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.
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