

## APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Muttusami Ayyar.*

QUEEN-EMPRESS

against

MUTTIRULANDI.\*

1887.  
October 20.

*Stamp Act, 1879, s. 61—Acknowledgment of receipt of cheque by letter, not stamped,  
an offence.*

M. acknowledged receipt of a cheque for Rs. 100 by letter. The letter was not stamped :

*Held*, that M. was properly convicted under s. 61 of the Indian Stamp Act, 1879.

APPLICATION under s. 439 of the Code of Criminal Procedure.

The accused was convicted by C. H. Mounsey, Acting Joint Magistrate of Madura, under s. 61 of the Indian Stamp Act, 1879, and fined Rs. 25 for acknowledging by letter without affixing a receipt stamp thereto, the receipt of a cheque for Rs. 100.

The grounds on which this petition was based were as follows :

- (1) Because the lower Court is wrong in treating the letter written by the accused as receipt.
- (2) Because the accused did give a stamped receipt to the complainant after the demand was made.
- (3) Because the accused was not bound to give a stamped receipt before any demand was made.

*Balaji Rau and Rajaram Rau* for the accused.

The Public Prosecutor (*Mr. Powell*) for the Crown.

The Court (Collins, C.J., and Muttusami Ayyar, J.) delivered the following

JUDGMENT:—We are of opinion that the conviction is right. Section 3, clause (17) of the Stamp Act I of 1879 defines a receipt to be a note or memorandum in writing, whereby . . . any cheque or promissory note is acknowledged to have been received.

By art. 52 of sch. I a receipt for any money or other property, the amount or value of which exceeds Rs. 20, requires a one-anna stamp (except it be especially exempted) and a cheque is

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\* Criminal Revision Case 365 of 1887.

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clearly property. Section 58 requires that a receipt for a cheque exceeding Rs. 20 in amount shall be acknowledged by a receipt duly stamped, if demanded. In the case before us, a cheque for Rs. 100 was sent to the accused and by him acknowledged in the following terms: "Your cheque for Rs. 100 to hand." We entertain no doubt but that it is an instrument chargeable with the stamp duty of one anna within the meaning of s. 61 of the Stamp Act, Act I of 1879, and the petition is dismissed.

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## APPELLATE CIVIL.

*Before Mr. Justice Muttusami Ayyar and Mr. Justice Shephard.*

KELAN (PLAINTIFF), APPELLANT,

and

MANIKAM (DEFENDANT No. 2), RESPONDENT.\*

*Revenue Recovery Act, ss. 41, 42—Sale for arrears of revenue—Land subject to kanam—Purchaser's title not subject to kanam holder's rights.*

Where land subject to a kanam was sold for arrears of revenue due by the pattadar and owner and the kanam holder claimed to retain possession as against the purchaser on the ground that his rights were not affected by the sale:

*Held*, that reading ss. 41 and 42 of Madras Act II of 1864 together, the purchaser's title was not subject to the kanam.

The contracts referred to in s. 41 of the Act are those which do not create a charge on the proprietary right in the land sold.

APPEAL from the decree of K. Kunjan Menon, Subordinate Judge of North Malabar, reversing the decree of K. Imbichuani Nayar, District Munsif of Tellicherry, in suit 463 of 1885.

Plaintiff having purchased certain land sold for arrears of revenue under Act II of 1864 (Madras), sued to recover the same. Defendant No. 1 was the original owner and pattadar. Defendants 3 and 4 were tenants under defendant No. 2 who claimed, under a kanam for Rs. 350 (granted by defendant No. 1 prior to the sale to plaintiff), to retain possession until his kanam was redeemed.

The Munsif found that no encumbrances had been reserved at the revenue sale and citing *Zamorin of Calicut v. Sitarama*(1) decreed for plaintiff.

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\* Second Appeal No. 503 of 1887.

(1) I.L.R., 7 Mad., 405.