

therefore alter the sentence of imprisonment to one of simple imprisonment for one month from this date, and we confirm that part of the sentence which imposes a fine of Rs. 200, but direct that only 139 of the sum, if paid, be given to the complainant, and we further direct that, if such fine be not paid, the appellant be further simply imprisoned for one month.

QUEEN-
EMPRESS
v.
RAMASAMI.

APPELLATE CRIMINAL.

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

QUEEN-EMPRESS

against

APPASAMI.*

1889.
Jan. 18.

Penal Code, ss. 415, 419, 463—Cheating by personation—Forgery.

A falsely represented himself to be B at a university examination, got a hall ticket under B's name, and headed and signed answer papers to questions with B's name :

Held, that A committed the offences of forgery and cheating by personation.

APPEAL against the conviction and sentence of R. Sewell, Sessions Judge of Bellary, in Sessions case No. 47 of 1888. The Sessions Judge recorded the following findings on the evidence :—

“That the appellant falsely represented himself to be one Vellore Absalom David at the University Matriculation and First in Arts examinations held at Bellary in December 1887, got a hall ticket under that name, sat under that name in the hall, and for three-and-a-half days wrote answer papers to questions, signing his name ‘V. A. David’ and attesting the papers in the heading provided as being the papers of Vellore Absalom David.”

Upon these findings the Sessions Judge following the decision of the High Court of Madras under similar circumstances in criminal appeal No. 103 of 1871, in preference to that of the High Court of Allahabad in *Empress v. Dwarka Prasad*(1), convicted the appellant of personation and forgery under ss. 415 and 463 of the Penal Code.

* Criminal Appeal No. 525 of 1888.

(1) I.L.R., 6 All., 97.

QUEEN-
EMPRESS
v.
APPASAMI.

Mr. *Nelson* for appellant argued that the facts alleged did not constitute an offence, that no harm or loss was attempted to be caused, and that no unlawful intent was proved.

Mr. *Wedderburn* and Mr. *Grant contra*.

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

JUDGMENT :—We see no reason to doubt the appellant's identity with the person who appeared at the examination at Bellary under the name of Vellore Absalom David. The attention of the witnesses who identified him was specially directed to the candidate, and we see no reason for distrusting either the honesty of their testimony or the accuracy of their recollection.

The question then arises whether the appellant has committed the offences defined in sections 415 and 463 of the Indian Penal Code. By falsely pretending to be one Vellore Absalom David he induced an officer of the university to deliver to him certain property, i.e., a ticket, entitling him to enter the examination room, and be there examined for the Matriculation test of the University, which ticket would not have been given had the superintendent not been so deceived. Then by writing the examination paper (exhibit I) the appellant made a false document with the intention of causing it to be believed that that document was made by one Vellore Absalom David. These acts will respectively constitute the offences of cheating and forgery if they were done fraudulently. We are of opinion that the acts of the appellant in obtaining by personation a ticket from the superintendent, and in signing the name of Vellore Absalom David on the examination papers, clearly indicate an intention on his part to lead the University authorities to believe that the examination papers were answered by Vellore Absalom David, and by this means to endeavour to procure the grant of a certificate to the effect that Vellore Absalom David had passed the Matriculation examination of the Madras University. The certificate, if granted, would have a certain recognized value, and we hold it would have been obtained by means of fraud.

We are fortified in this opinion by the fact that in 1871 a Bench of this Court (Holloway and Kindersley, JJ.) came to a similar conclusion on similar facts. (Criminal appeal No. 103 of 1871.)

We hold, therefore, that the appellant was rightly convicted under ss. 419 and 465 of the Indian Penal Code and dismiss this appeal.

QUEEN-
EMPRESS
v.
APPASAMI.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Parker.

QUEEN-EMPRESS

against

COMMER SAHIB.*

1888.
Nov. 23.

*Evidence Act, ss. 26, 27—Confessional statements made in the custody of police—
Test of admissibility.*

The test of the admissibility under s. 27 of the Evidence Act of information received from an accused person in the custody of a police officer, whether amounting to a confession or not, is:—"was the fact discovered by reason of the information, and how much of the information was the immediate cause of the fact discovered, and as such a relevant fact?"

THIS was a case of which the records were called for by the High Court under s. 439 of the Code of Criminal Procedure.

The prisoner was charged with the offences of theft in a building and house-breaking by night under ss. 380 and 457 of the Penal Code, and was tried by H. H. O'Farrell, Acting Sessions Judge of Tanjore, and a jury. There was evidence tracing the stolen property to the possession of the prisoner, and also evidence of certain statements with reference to it made by him while in the custody of the police. Upon the latter point the Acting Sessions Judge directed the jury in paragraph 7 of his charge as follows:—

"There is no doubt that the prisoner was taken to the village of Kasapuram on the 10th and 11th August, and there this property was produced on his demand by the prosecution witnesses Nos. 3 to 8. Any statements made by the prisoner that these cloths had been previously deposited with the witnesses are confessional statements made while the prisoner was in the custody of the police, and you must entirely dismiss them from your minds. They are entirely inadmissible as against the prisoner, and only so much of them is admissible for the purpose of corroborating the

* Proceedings of the High Court, No. 1079, Judicial.