

PANCHANATHAN
PILLAI,
In re.

or in a foreign country. We therefore hold that Exhibit J-1 is admissible in evidence.

[Their Lordships then discussed the evidence.]

We set aside the conviction and sentence and direct that the appellant be set at liberty.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Waller and Mr. Justice Jackson.

1928,
December 21.

T. R. SRIRAMULU NAIDU AND ANOTHER (ACCUSED).

PETITIONERS *

Indian Penal Code, sec. 471—Scope of—Person forges document and uses it as genuine—If can be sentenced for both the offences.

Section 471 of the Indian Penal Code only lays down that the sentence that can be imposed for the offence of using a forged document as genuine, is the same as the sentence that can be imposed for the offence of forgery; and a person who both forged a document and used it as genuine can be sentenced for both the offences. *Queen-Empress v. Umrao Lal*, (1900) I.L.R., 23 All., 84, dissented from.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the Judgment of the Court of Session of Trichinopoly Division, dated 5th July 1928 in Criminal Appeal No. 15 of 1928 preferred against the Judgment of the Assistant Sessions Judge of Trichinopoly Division in Sessions Case No. 10 of 1928.

V. L. Ethiraj and *A. S. Sivakaminathan* for petitioners.

K. N. Ganpati for Public Prosecutor for the Crown.

* Criminal Revision Case No. 624 of 1928.

The JUDGMENT of the Court was delivered by

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WALLER, J.—The first petitioner has been convicted under section 467, Indian Penal Code, of forgery. The second petitioner has been convicted of abetment of forgery and of having used the forged document as genuine. The first objection taken is, that they should not have been tried together. It is not, in our opinion, sustainable. The offences were parts of one and the same transaction, and the first petitioner assisted the second at both stages. The second objection is, that the second petitioner should not have been convicted of abetment, no separate charge of abetment having been framed against him. We see no reason to enter on a discussion of this somewhat vexed question, for the objection is entirely academic. The Assistant Sessions Judge, though he convicted the petitioner of abetment of the forgery, passed sentence on him only for using the forged document as genuine; so that, even if we upheld the objection, the result—as far as the petitioner is concerned—would be exactly nothing. The Assistant Sessions Judge, in following the course he did, relied on a ruling from Allahabad, *Queen Empress v. Umrao Lal* (1). AIKMAN, J. thought the words ‘as if he had forged such document’ were directed against some person other than a person proved to be the actual forger and held that a man who both forged a document and used it as genuine could not be sentenced for both offences. With great respect, we cannot agree. All, it seems to us, that section 471, Indian Penal Code, lays down is, that the sentence that can be imposed for the offence of using a forged document as genuine is the same as the sentence that can be imposed for the offence of forgery. They are separate offences and, under section 35, Criminal Procedure Code, separate sentences may be

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passed on an accused person who has been convicted at the same trial of both. The last objection is that the second petitioner should not have been convicted of an offence under section 471, Indian Penal Code, as it was another person that physically presented the forged document for registration. The evidence shows that the petitioner actively participated in the process of presentation. He was the prime mover in the affair and the second accused was a tool in his hands. He brought her to the Registrar's office, was with her all the time and, knowing the document to be a forgery, aided in its use by lending his services as an identifying witness. He was therefore properly convicted.

The Criminal Revision Petition is dismissed.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Odgers.

P. SANKARAN PILLAI (APPELLANT), ACCUSED *

1929,
January 25.

Indian Post Office Act (VI of 1898)—Postal employee prosecuted under sec. 55—Sanction under sec. 72, if to be obtained before or after Court takes cognizance.

Sanction under section 72 of the Post Office Act to prosecute a postal employee, for an offence under section 55 of the said Act, may be obtained either before or after the Court takes cognizance of the offence.

APPEAL against the order of the Court of the Assistant Sessions Judge, the Nilgiris, Ootacamund, in case No. 87 of the Calendar for 1928.

(Miss) Sita Devadoss and T. A. Ananta Ayyar for appellant.

K. S. Vasudevan for Public Prosecutor for the Crown.

* Criminal Appeal No. 550 of 1928.