

1913

MOHAN  
LALJI  
v.  
GORDEHAN  
LALJI  
MAHARAJ.

by Muttuji was an off-shoot of the worship in Nathdwara. The temple, again, was built on land belonging to the Tikait defendant, with the permission of his ancestor, who held the office of Tikait at the time.

It seems to their Lordships that, apart from the statements contained in Muttuji's letter, on which the defendant relied in his written statement, he has a clear title, according to the customs and usages of the Ballav *Kul*, to the shebatship of the temple in suit.

On the whole their Lordships are of opinion that the judgement and decree of the High Court are right, and that this appeal must be dismissed. And they will humbly advise His Majesty accordingly.

The appellants will pay the costs.

*Appeal dismissed.*

Solicitors for the appellants:—*T. L. Wilson, & Co.*

Solicitor for the first respondent:—*Douglas Grant.*

J. V. W.

## REVISIONAL CRIMINAL.

*Before Mr. Justice Tudball.*

EMPEROR v. TULSHI RAM.\*

*Act No. II of 1899 (Indian Stamp Act), sections 2 (23), 62 and 69—Sarkhat—Memorandum of account—Receipt—Several items of over Rs. 20 each—Each item to be stamped.*

*Held* that a memorandum of account between debtor and creditor, which was left in the possession of the debtor and consisted of items entered from time to time of money advanced and repaid, was a document which required a separate receipt stamp in respect of each item of over Rs. 20.

ONE Tulshi Ram was in the habit of borrowing money from time to time from a money-lender. The account of the sums of money borrowed and repaid was left in the hands of the debtor, and consisted of a paper upon which such sums were entered as occasion arose in opposite columns. When the account was finally closed, a balance of Rs. 50 odd was paid and one receipt stamp attached and signed by the creditor firm. The receipt stamp was not cancelled. The debtor Tulshi Ram was on these facts convicted under section 62 of the Stamp Act, 1899, on the finding

\* Original Revision No. 82 of 1913 from an order of Ram Saran Das, Magistrate, first class, of Ballia, dated the 23rd of October, 1912.

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that each entry of a receipt for over Rs. 20 required to be stamped separately. He was also convicted under section 63 of the Act. Tulshi Ram applied in revision to the High Court.

Munshi *Lakshmi Narain*, for the applicant.

The Assistant Government Advocate (Mr. R. Malcomson) for the Crown.

TUDBALL, J.—In this case the applicant has been convicted under sections 62 and 63 of Act II of 1899 in respect of what has been called a *sarkhat* throughout the case. This *sarkhat* is a document on a piece of paper which appears to have been written up from time to time. It shows on one side sums of money advanced, and on the opposite side various sums of money repaid by the debtor. When the account was finally closed, a balance of Rs. 50 odd was paid and one receipt stamp attached and signed by the creditor firm. The receipt stamp was not cancelled. The Magistrate has held that the entry in respect of each of the items of receipt of over Rs. 20, is an acknowledgement within the definition of the word "receipt" in section 2, clause (23), of the Act, and that each of such entries should have been stamped, and he has, therefore, convicted the accused under section 62 of the Act. In respect of the non-cancellation of the receipt stamp affixed, he has convicted him under section 63. There cannot be any doubt that the *sarkhat* was written up from time to time and that it was left in the hands of the debtor, so that the entry of each item of payment and receipt might be entered thereon to act as an acknowledgement of payments and receipts. When each item of receipt was entered by the creditor therein, there can be no doubt that the memorandum imported an acknowledgement of a part-payment of the debt, and as each entry was made it ought to have been stamped with a receipt stamp. Technically, therefore, the applicant was guilty, and as only a nominal fine has been imposed, there is no reason for interference on the question of sentence. The conviction under section 63 is of course good. The application is rejected.

*Application rejected.*