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do not think that it is always recognized in this country what are the enormities of the traffic in cocaine. Many people are under the impression that cocaine is no more harmful than opium. This impression is based on an absolute ignorance of the results of cocaine upon those unhappy persons who consume it. It is sufficient to say that cocaine, when taken as it is taken by the victims of the drug, will ruin the recipients mentally and physically. In the interest of the community it behoves the courts to pass very severe sentences upon persons who pander to the unhealthy cravings of their fellow-creatures by supplying them with this drug. Their motives for supplying it are as low motives as can actuate a human being. They supply the drug because a very large profit is made by poisoning the public in this manner. For these reasons I refuse to reduce the sentences upon any one of these persons. I direct that they surrender at once to their bail and serve out the unexpired portions of their sentences.

*Application rejected.*

## APPELLATE CRIMINAL.

*Before Sir Louis Stuart, Knight, Chief Judge.*

MATHURA PRASAD v. EMPEROR.\*

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December,  
10.

*Indian Penal Code, sections 367 and 471—Interpolations and alterations in public record in record room—Forged record, use of certified copies of—Using certified copies of forged entries, when amounts to use of forged documents—Circumstantial evidence, value of.*

*Held*, that when forgeries, if any, were committed by one person inside the record room and copies reproducing the false entries were put up in a suit to establish a claim the

\* Criminal Appeal No. 641 of 1925, against the order, dated the 18th of September, 1925, of Thalur Rachpal Singh, Sessions Judge of Gonda, convicting the appellant under sections 471 and 465 of the Indian Penal Code.

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use of such certified copies is a use of forged documents when they are put in the case in this way. Of course the mere circumstance that the documents had been forged would not be sufficient to justify a conviction. It is necessary to prove in order to obtain such a conviction that the use has been fraudulent or dishonest and in addition that the person putting in the copies knew, or had reason to believe, that the originals were forged.

*Held further*, that it is only possible in a case of this kind to arrive at a conclusion on consideration largely of circumstantial evidence; but where the evidence, including the circumstantial evidence, can leave no doubt to the mind of a reasonable man as to the fact that appellant knew that he had no title, that he knew and had reason to believe that the entries were false and that he used them in order to obtain something to which he was not entitled his conviction is a good conviction.

[None for the appellant.]

Rai Bahadur *N. N. Ghoshal* (holding brief of Mr. *G. H. Thomas*, Government Advocate, with Mr. *Sarju Prasad Srivastava*, Government Pleader, Gonda), for the respondent.

STUART, C. J. :—The facts of the case out of which this appeal arises are these. Girdhari Lal and Mathura Prasad (the latter being the appellant in this appeal) are own brothers. At some period, about 1917, they were working in the office of the Manager of the Belahra Estate in the Gonda district. They left their employment at some time later. The management of the Belahra Estate was subsequently undertaken by the Court of Wards. In 1920 Girdhari Lal and Mathura Prasad were cultivating holdings as tenants of the estate. The Court of Wards issued notices to eject them. The brothers instituted suits in the revenue courts to set aside the notices of ejectment. In these suits they asserted that they were under-proprietors in respect of the land in question

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and of other lands and produced certified copies from the settlement records to support their title. On the strength of these certified copies Mr. CHAKRAVARTI, Assistant Collector of Gonda, decreed the suits of Girdhari Lal and Mathura Prasad and set aside the notices of ejection. As a result Girdhari Lal and Mathura Prasad remained in possession of the lands in respect of which the notices of ejection had been issued. Owing to certain circumstances, which are not very material to the present appeal, the Court of Wards came to the conclusion that, although these certified copies were genuine certified copies, the actual settlement records had been tampered with, with the result that the copies disclosed a state of affairs which did not exist. It followed from this conclusion that Girdhari Lal and Mathura Prasad did not possess under-proprietary rights and that forged interpretations had been made in the settlement records to establish their title to these lands. The Court of Wards set the criminal law in motion against Girdhari Lal in the year 1924. He was convicted in one case on charges under sections 466, 467 and 468 of the Indian Penal Code and in another case on a charge under section 471 of the Indian Penal Code. He was convicted in 1924. He appealed to the Judicial Commissioner's Court and his appeal was dismissed on the 31st of January, 1925. Mathura Prasad is, of course, in no way affected by the proceedings against his brother. I mention these proceedings, however, to show how the case came into being against Mathura Prasad. The authorities took no action at first against Mathura Prasad as he could not be found, but after Girdhari Lal's appeal had been dismissed by the Court of the Judicial Commissioner they apparently had reason to suppose that Mathura Prasad's presence could be secured, and in consequence the Government

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Pleader acting, not on behalf of the Court of Wards but acting under instructions from the District Magistrate, in the interests of justice filed an application on the 24th of February, 1925, to the revenue court, which had decided the suits contesting the ejectment notices, asking the court to take action on its own initiative under the provisions of section 195(c) of the Code of Criminal Procedure in respect of using as genuine, forged documents. The officer who had presided over this Court at the time that the previous suits had been decided had been transferred and the application was made to his successor. The court recorded a complaint initiating proceedings on the 23rd of February, 1925, and issued a warrant against Mathura Prasad giving him an opportunity to show cause. Mathura Prasad appears to have surrendered to this warrant. He filed a written petition on the 30th of March, 1925, in which he endeavoured to show cause against his prosecution. An order was subsequently passed directing Mathura Prasad's prosecution and he was released on bail. The officer presiding over the court, instead of sending Mathura Prasad for trial before a Magistrate, committed him under the provisions of section 478 of the Code of Criminal Procedure to the court of session on the 6th of July, 1925. He was tried by the Sessions Judge of Gonda and convicted on the 18th of September, 1925. He has appealed against his conviction from the jail. He is not represented. His appeal is not the usual jail appeal and presents some very peculiar features. Attached to his application in appeal are over 18 typewritten pages in English of arguments in support of his case. He had evidently taken time to obtain those arguments. Although he was convicted on the 18th of September, 1925, he did not sign these arguments till the 28th of November. Mathura Prasad is, upon

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his own showing, unacquainted with the English language and it is difficult to see how he obtained the preparation of these most elaborate arguments which are written in English and which contain somewhat ingenious reasoning. I have examined these arguments and I have gone carefully through the voluminous record. I find that he has been rightly convicted. The arguments, though ingenious, are in no way convincing. They are plausible, but avoid the real points as far as they possibly can. While pressing into the service of the appellant every pettifogging plea that the brain of a small legal practitioner could conceive, they carefully avoid the real points upon which the case should be determined. These points have been brought out very clearly and very well in the judgment of the learned Sessions Judge. I wish to place on the record my appreciation of the admirable way in which the case was presented and tried in the Court of the Sessions Judge of Gonda. The grounds of appeal deserve at any rate to be taken in detail. I do not propose to take them exactly in the order in which they are put.

The first point taken is that the whole procedure was illegal. I have neither the time nor the inclination to refer to every point taken in the written arguments of the appellant on this point. It is sufficient to say that I consider that the procedure was perfectly legal, and that every privilege was given to the appellant to which he was entitled under the law.

The second point raised is that even if it be found that there had been tampering with the documents in the record room the appellant could not legally be charged with having committed any offence for having used certified copies which reproduced the errors of the original. There is absolutely

no force in the argument here. When forgeries, if any, were committed by one person inside the record room and copies reproducing the false entries were put up in the suits contesting the notice of ejection, the use of such certified copies is a use of forged documents when they are put in a case in this way. Of course the mere circumstance that the documents had been forged would not be sufficient to justify a conviction. It is necessary to prove in order to obtain such a conviction that the use has been fraudulent or dishonest, and in addition that the person putting in the copies knew, or had reason to believe, that the originals were forged, but the plea set up by the appellant in this respect has no force whatever.

I now come to the main points. It is necessary for the prosecution to establish that the documents had been tampered with in the record room, that false entries had been made therein, that the appellant had put in copies of these documents fraudulently or dishonestly, and that he knew, or had reason to believe, that the documents were forged. The prosecution has established every point. It is clear to me upon the evidence which was believed both by the learned Sessions Judge and the assessors that deliberate interpolations and alterations were made in settlement records to establish falsely a title to certain land in favour of the appellant's predecessor. Such entries could not have been made without the active connivance of officials in the record room, and I agree with the learned Sessions Judge that the circumstance that those entries were made discloses a scandalous state of affairs in the Gonda record room, which requires careful examination by the authorities. But it is clear that these interpolations were made. I find it established by the clearest possible evidence, which I believe, that the appel-

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lant utilized these copies of the forged entries knowing full well that the entries were forged and that he used them both fraudulently and dishonestly to establish a title to under-proprietary rights which he knew he did not possess. It is only possible in a case of this kind to arrive at such a conclusion on a consideration largely of circumstantial evidence; but where, as here, the evidence including the circumstantial evidence can leave no doubt to the mind of any reasonable man as to the facts that appellant knew that he had no title, that he knew, and had reason to believe, that the entries were false and that he used them in order to obtain something to which he was not entitled, his conviction is a good conviction.

I do not find that the learned Sessions Judge's decision was, in any way, affected by irrelevant evidence or outside considerations. As I have already said I consider his judgment an exceptionally good one.

The last question that remains is the question of sentence. The appellant has put in a strong plea for mercy on the ground that he is a very old man. On his own showing he is not more than 55 and I do not consider that he has arrived at an age which entitles him to exceptionally lenient treatment. He has committed about as serious an offence as he could commit under the sections under which he was charged and, in my opinion, the sentence passed upon him is on the right side. I dismiss his appeal.

*Appeal dismissed.*