

1929
 RAGHUNANDAN
 PERSHAD
 v.
 MOTI RAM.

Sons who are divided are liable for the debts of the father to the extent of the family property which comes to them under the partition.

1929
 April, 19.

BY THE COURT: (STUART, C. J., HASAN and RAZA, JJ.). We answer the reference accordingly.

REVISIONAL CRIMINAL.

Before Mr. Justice A. G. P. Pullan.

1930.
 November,
 13.

RAGHUBAR SINGH (ACCUSED-APPLICANT) v. KING-EMPEROR (COMPLAINANT-OPPOSITE PARTY).*

Press and Registration of Books Act (XXV of 1867), sections 4 and 13—Declaration for keeping a press—Authorities knowing a certain person to be owner—Magistrate allowing manager to submit declaration—Resignation of manager—Proprietors sending information of resignation and Magistrate's acceptance of it is in substance a renewal of declaration—Proprietor, whether guilty of an offence under section 13 of Act XXV of 1867.

Section 4 of the Printing Presses and Books Act (XXV of 1867) appears to have been enacted with a double motive. The first is that the executive authorities shall note where the press is situated and the second that they shall know who is the person in charge. There is not a word in the Act to suggest that any fresh declaration should be filed in the case of any press which has once been declared and which continues at the same address. The Act does not appear to provide for a change in the person of the keeper of the Press. 24 P. R., 49, referred to.

Where the district authorities knew from the outset that a certain person was the owner of a press, his ownership did not cease merely because the District Magistrate himself allowed him to submit a declaration signed by his manager. Where when the manager resigned the proprietor in his letter described the press as "our press" and signed himself as proprietor, it was equivalent to a declaration under section 4

* Criminal Revision No. 117 of 1930, against the order of L. S. White, Sessions Judge of Lucknow, dated the 27th of October, 1930, upholding the conviction of the applicant.

and when the District Magistrate on receiving that letter and considering the previous declaration took no action, it must be concluded that he accepted this letter as being in substance a renewal of the declaration in the name of the proprietor and he could not be held to have committed an offence under section 13 of Act XXV of 1867 by keeping a press without making a declaration as required by section 4.

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Messrs. *J. Jackson, Ram Prasad and Raj Bahadur*, for the applicant.

The Government Advocate (*H. K. Ghose*), for the Crown.

PULLAN, J. :—This is an application in revision of an order of the learned Sessions Judge of Lucknow who has upheld the conviction of one Raghubar Singh for an offence under section 13 of the Printing Presses and Books Act, No. XXV of 1867, and reduced the sentence imposed by the Magistrate from one of four months' rigorous imprisonment to one of two months' simple imprisonment. In an order dated the 6th of September, 1930, the District Magistrate of Lucknow informed the City Magistrate that Raghubar Singh had been ordered to be prosecuted under section 13 of Act XXV of 1867 and the City Magistrate was directed to take necessary action. Accordingly the City Magistrate summoned Raghubar Singh and asked him certain questions. The questions and answers put to and made by the accused form the whole of the record of the case. The Magistrate did not take any other evidence but he examined the accused twice, once on the 17th of September and once on the 25th of September. On the first occasion he questioned him as to the offence which the accused was supposed to have committed. On the second occasion he introduced an entirely irrelevant charge but he took into account the answers given to these questions also in imposing an illegal sentence on the accused. The procedure was accordingly unsatisfactory but it does not appear that any exception was taken to this before the Sessions Judge. The latter has written

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a very careful judgment in which he states the facts and comes to the conclusion that an offence has been committed, and it was not merely a technical offence because it was not due to ignorance but was deliberate. It is unfortunate that in coming to the second conclusion he should have relied upon the answers given by the accused to the second series of questions put to him which he himself has described as irrelevant.

I would say at once that I shall exclude entirely from consideration the fact that a book subsequently proscribed was printed in this press during the period when according to the prosecution there was no subsisting declaration as required by section 4 of Act XXV of 1867. This was not part of the charge and it has no place in a prosecution under section 13 which does not deal with motives but merely with evasions of the law.

In order to understand the defence put up by the accused it is necessary to consider certain facts which appear from the documentary evidence supplied by the District Magistrate. On the 6th of June, 1929, this Raghubar Singh made an application on an eight-anna stamp to the District Magistrate in which he stated that he was starting a printing press at 5, Hewett Road, Lucknow, which was to be called Jagdish Press, that he was appointing one Lal Bahadur Singh as manager and he requested the District Magistrate to accept a declaration under section 4 of the Act signed by Lal Bahadur Singh and which appears to have been submitted along with the application. The declaration was signed and sealed by the District Magistrate on the 7th of June, 1929. On the 12th of July, 1930, Raghubar Singh submitted the following letter to the District Magistrate :—

“SIR,

I beg to inform you that Lal Bahadur Singh, manager, Jagdish Press, Lucknow, had resigned from our press. He is, therefore, no more the manager of this press.”

The letter is signed by "Raghubar Singh, Proprietor, Jagdish Press, Lucknow."

This letter was accepted by the District Magistrate and bears an endorsement:—"No action—File, Dated the 16th of July." There is also a note made on the letter showing that that order was passed after the declaration filed by the keeper of the Jagdish Press had been examined. On the 25th of August, 1930, Raghubar Singh made a second declaration under section 4 of Act XXV of 1867 in his own name and this was countersigned by the District Magistrate on the same day. Subsequently the District Magistrate demanded security of Rs. 1,500 and as Raghubar Singh could not comply with the order to deposit security he suspended all business in the press as shown by his letter to the District Magistrate dated the 5th of September. The question is whether Raghubar Singh committed an offence under section 13 of Act XXV of 1867 by keeping a press from the 12th of July, 1930, to the 25th of August, 1930, "without making such a declaration as is required by section 4 of the Act." The accused himself when first questioned by the Magistrate stated the truth, that is to say, he admitted keeping the press without filing a declaration, but he explained that he gave information to the Magistrate that Lal Bahadur had resigned and he did not know that he had to file any fresh declaration. The learned Sessions Judge has convicted the applicant on the ground that he must be held to know the law and the law is presumably that he had to file a fresh declaration. There is not a word in the Act to suggest that any fresh declaration should be filed in the case of any press which has once been declared and which continues at the same address. The Act does not appear to provide for a change in the person of the keeper of the press. As far back as 1889 a Judge of the Punjab Chief Court ruled that no fresh declaration is required even if the press is removed from one place to another within the same jurisdiction. See Criminal Judgment

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No. 9 (24 Punjab Records for 1889, p. 49). Section 4 appears to have been enacted with a double motive. The first is that the executive authorities shall note where the press is situated and the second that they shall know who is the person in charge. A removal of the premises clearly deprives the executive authorities of their knowledge as to the location of the press. Yet the Punjab Court held that no fresh declaration is required in such a case. It has been argued before me that the present case is different and certainly it is different in so much as a failure to declare a change in the person responsible for the press deprives the executive authorities of knowledge of the other fact which they derive from a declaration under the section. But the Punjab case would clearly be analogous if I were prepared to hold on the facts of the present case that the executive authorities were deprived of their knowledge as to the identity of the keeper of this press. In my opinion they were not. They knew from the outset that Raghubar Singh was the owner of the press and his ownership did not cease merely because the District Magistrate himself allowed him to submit a declaration signed by his manager. Moreover when the manager resigned Raghubar Singh in his letter described the press as "our press" and signs himself as proprietor. This is in my opinion equivalent to a declaration under section 4 and the District Magistrate on receiving this letter and considering the previous declaration took no action from which I conclude that he accepted this letter as being in substance a renewal of the declaration in the name of Raghubar Singh. I have no doubt that Raghubar Singh took it as such and in my opinion he was justified in doing so. There is nothing in the Act which would suggest to him that he was acting improperly and there is nothing in his conduct to show that he had any intention of disclaiming full responsibility for the press. Lastly it is a significant fact that when the second declaration was made on the 25th of August it was accepted by the District

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Magistrate and I cannot suppose that up to that time the district authorities were under the impression that this man had committed any evasion of the law. I cannot, therefore, support the conviction even on the ground that there has been a technical offence for, in my opinion, the accused has committed no offence at all. I accordingly allow this application and set aside the conviction and sentence. The bail bond will be discharged.

Application allowed.

APPELLATE CIVIL.

Before Mr. Justice Muhammad Raza and Mr. Justice Bisheshwar Nath Srivastava.

HUBRAJI, MUSAMMAT (DEFENDANT-APPELLANT) v. CHANDRALALI UPADHIYA AND OTHERS (PLAINTIFFS-RESPONDENTS).*

1930
November,
23.

Custom of exclusion of daughters—Wajib-ul-arz, preparation of—Oudh Circular No. XX of 1863—Entries in a wajib-ul-arz, value to be attached to—Discrepant statements regarding other customs, if good ground to reject wajib-ul-arz about a custom of which entry clear and unambiguous—Evidence Act (I of 1872), section 48—Opinion, evidence about custom, admissibility of—Adverse possession—Mutation in favour of Hindu widow—Hindu widow's continuous possession for over twelve years as of right—Widow's possession, whether adverse—Hindu law—Property acquired by Hindu female by adverse possession, whether becomes her stridhan—Stridhan—Succession to stridhan property—Custom of exclusion of daughters from father's inheritance established—Custom of exclusion of daughters from inheriting mother's property, inference about.

Kajib-ul-araiz in Oudh were prepared under Oudh Circular No. XX of 1863. The entries in a *wajib-ul-arz* may be taken to have been made after due inquiry by the Settlement Officer unless contrary is shown by the party alleging it. There is a presumption that the official acts which were performed long ago were regularly performed.

*First Civil Appeal No. 3 of 1930, against the decree of Pandit Krishna Nand Pande, Subordinate Judge of Sultanpur, dated the 28th of October, 1929.