

REVISIONAL CRIMINAL.

Before Mr. Justice Scott-Smith.

BADAN SINGH—PETITIONER,

versus

THE CROWN—RESPONDENT.

Criminal Revision No. 556 of 1922.

1922

June 20.

Indian Penal Code, Act XLV of 1860, sections 464 and 465—False document—false addition to entry in account book by the creditor.

The accused sold a bullock to B and P for Rs. 40. B and P paid him one rupee as earnest money and promised to pay the balance at *Namast Sambat* 1976. An entry to this effect was made in the accused's account book and was thumb-marked by the debtors. Subsequently a clause was added by the accused on the credit side of the *ba'li*, without the sanction of the debtors, which said that if the amount was not paid as agreed upon, the creditor would take $1\frac{1}{2}$ times the principal, including interest. The accused was convicted by the Magistrate of an offence under sections 471/465, Indian Penal Code. His conviction having been upheld by the Sessions Judge, he applied to the High Court on the revision side.

Held, that no false document had been made by the accused within the meaning of section 464, Indian Penal Code.

Jawala Ram v. Queen Empress (1), followed.

Revision from the order of Sardar Sewa Ram Singh, Sessions Judge, Ludhiana, dated the 16th March 1922, affirming that of Rai Sahib Lala Sant Ram, Magistrate 1st class, Ludhiana, dated the 24th February 1922, convicting the petitioner.

JAI GOPAL Sethi, for Petitioner.

NEMO, for Respondent.

SCOTT-SMITH J.—This is a petition by Badan Singh for revision of the order of the Sessions Judge of Ludhiana, upholding on appeal an order of the Magistrate convicting him of an offence under sections 471/465, Indian Penal Code.

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Briefly the facts were as follows:—Bhana and Puran bought a bullock from the petitioner for Rs. 40 and paying one rupee as earnest promised to pay the remaining Rs. 39 at *Namani Sambat* 1976. An entry to this effect was made in Badan Singh's account book and was thumb-marked by the debtors. Subsequently a clause was added on the credit side of the *bahi* which said that if the amount was not paid as agreed upon then the creditor would take $1\frac{1}{2}$ times the principal including interest.

The sole argument, according to the learned Sessions Judge, raised in his Court was that the addition was made on the credit side and with the permission of the debtors. It has been found as a fact that the debtors did not sanction the addition of the condition about interest. It is contended in revision that even accepting the finding of the Lower Courts, no false document has been made within the meaning of section 464, Indian Penal Code. The words of the addition are as follows—*Agar iqrar guzar jawe to bhaij smet deorhe lene*. It is argued that these words do not purport to contain an agreement by the debtors, but merely represent an assertion by the creditor that if the amount due be not paid as agreed upon, he will take $1\frac{1}{2}$ times the amount. Counsel has referred to *Jawala Ram v. Queen-Empress* (1) as an authority for the proposition that every false or fabricated document is not a forged document. There must be acts that constitute the document a false or fabricated one, that is to say, the case must fall within the definition of making a false document in section 464, Indian Penal Code, and such false document must also possess a certain character or tendency, that is to say, the character described in section 463, Indian Penal Code. As in that case, so here, the addition complained of is merely an assertion or allegation in writing by the creditor himself and it is to the effect that if the debt is not paid as agreed upon, he will take $1\frac{1}{2}$ times the amount. This entry does not operate to impose any liability to pay interest upon the debtors and therefore would not have the tendency referred to in section 463, Indian Penal Code, in other words, it would not cause

(1) 12 F. B. (Cr.) 1895.

damage or injury to the debtors, because it does not purport to be any agreement by them to pay interest. I therefore hold that no false document has been made within the meaning of section 464, Indian Penal Code. It is possible that the petitioner might have been charged with an attempt to cheat or with fabrication of false evidence but he has not been so charged and the circumstances of the case do not warrant any further trial of him. He has already been sufficiently punished.

I allow the revision and, setting aside the order of the Lower Courts, acquit the petitioner and direct that he be discharged from his bail.

M. R.

Revision accepted.

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