

APPELLATE CRIMINAL.

Before Mr. Justice Parsons and Mr. Justice Ranade.

1896.

QUEEN-EMPRESS v. KHANDUSINGH*

December 17. -

Penal Code (Act XLV of 1860), Secs. 463 and 471—Using as genuine a false document.

The accused applied to the Superintendent of Police at Poona for employment in the police force. In support of his application he presented two certificates which he knew to be false. One of these certificates was a wholly fabricated document, whilst the other was altered by several additions made subsequently to the issue of the certificate.

Held, that the accused was guilty of offences under sections 463 and 471 of the Indian Penal Code (Act XLV of 1860).

APPEAL from the conviction and sentence recorded by G. C. Whitworth, Sessions Judge of Poona.

The accused was charged, under section 471 of the Indian Penal Code (Act XLV of 1860), with using as genuine two certificates purporting to be signed by a public servant in his official capacity which he knew to be forged.

The accused was for three years a sapper in the corps of Bombay Sappers and Miners. He obtained his discharge from the corps on the 24th August, 1896. On the 4th September, 1896, he applied to the Police Superintendent of Poona for employment in the police force. He represented that he had been havildár-major in the Sappers and Miners for nearly four years.

In support of his application he produced two certificates, one purporting to be a certificate signed by Major O'Sullivan, Commanding the Sappers and Miners, and the other a discharge certificate partly in print and partly in manuscript, and signed by the same officer.

Of these, the first certificate was a wholly fabricated document, whilst the discharge certificate was altered by the addition of the word "havildár" after "sapper" in two places, and also by the addition of the figure "9" representing nine months, after the entry "3 years", which expressed the accused person's period of service. These alterations were made subsequently to the issue of the certificate.

* Criminal Appeal, No. 346 of 1896.

The accused was convicted by the Sessions Judge of the offences charged, and sentenced to one year's rigorous imprisonment under sections 466 and 471 of the Indian Penal Code.

Against this conviction and sentence the accused appealed to the High Court.

There no appearance for the Crown or for the accused.

PER CURIAM:—This case is clearly distinguishable from *Jan Mahomed v. Queen-Empress*⁽¹⁾, where the intention was to produce a false belief that the accused was entitled to a certain dignity only. Neither is it similar to *Imperatrix v. Haradkan*⁽²⁾, where the intention was to be permitted to sit for a certain examination.

In the present case, the document was falsely made and used by the accused with the object of obtaining a situation in the police force at Poona. It was thus made and used with the intent to cause a person to enter into an express contract for service, that is, to engage the accused as a police officer. The act, therefore, of the accused comes within the terms of section 463 of the Indian Penal Code and is indeed the precise illustration (k) given in the Code under section 464.

The act of using such a document is punishable under section 471. This is in accordance with the decision of the Calcutta High Court in the case of *Abdul Hamid v. Empress*⁽³⁾ and of this Court in the case of *Queen-Empress v. Vithal Narayan* referred to with approval in the case of *Queen-Empress v. Ganesh Khanderao*⁽⁴⁾ and reported as a note to that case. In the case of *Queen-Empress v. Soshi Bhushan*⁽⁵⁾ that decision was agreed with.

(1) I. L. R., 10 Cal., 584.

(3) I. L. R., 13 Cal., 349.

(2) I. L. R., 19 Cal., 380.

(4) I. L. R., 13 Bom., 506.

(5) I. L. R., 15 All, 210.

CRIMINAL REFERENCE.

Before Mr. Justice Jardine and Mr. Justice Ranade.

QUEEN-EMPRESS v. BABAJI.*

Forest Act (VII of 1878), Sec. 78 —Refusal to serve as member of a panch—
Indian Penal Code (Act XLV of 1860), Sec. 187.

A person was convicted under section 187 of the Indian Penal Code for refusing, when called on by a forest guard, to serve as one of a panch for

*Criminal Reference, No. 2 of 1897.

1896.

QUEEN-
EMPRESS
v.
KHANDU-
SINGH.

1897.

January 28.