

## Appellate Jurisdiction.(a)

Criminal Petition No. 43 of 1873.

THE COLLECTOR OF SALEM.....Petitioner.

A Rupees 50 Currency note was changed by one M. at the Government Treasury on the Shevaroy Hills. Said M. was subsequently convicted by the Sessions Court of Salem of having stolen the note from one S. The note was produced in evidence at the trial and the Court directed it to be given up to S. from whom it had been stolen. *Held*, that the Sessions Court was wrong. That a note of this kind being in legal view money, the property in it passes by mere delivery, and that nothing short of fraud in taking an instrument payable to bearer will engraft an exception upon the rule.

**T**HIS was a Petition under Section 404 of the old Code of Criminal Procedure, praying the High Court to revise the Proceedings of the Court of Session of Salem, dated 21st October 1872, No. 209.

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The Petition presented by the Collector of Salem, stated the following facts—

“ A Rs. 50 Currency note was changed by one Muppen at the Government Treasury on the Shevaroy Hills. The said Muppen was subsequently convicted by the Sessions Court of Salem of having stolen the said note from a Mr. Slater. The said note was sent for by the committing Magistrate from the Salem Treasury and was produced in evidence before the Sessions Court.

By Proceedings, dated 21st October 1872, the Sessions Court directed the said note to be given up to the said Mr. Slater from whom the same was stolen.

Petitioner submits that the said order is erroneous and that the said note is the property of Government as *bona fide* holders for value without notice of the theft.

Petitioner therefore prays this Honorable Court, under Section 404 of the Criminal Procedure Code, to send for the Record of the said Proceedings of the Sessions Court of Salem and to order that the said note be given up to Petitioner as the property of Government.”

*The Government Pleader*, for the Petitioner.

The Court delivered the following

**JUDGMENT** :—The question is whether the Salem Treasury, or the person from whom it was stolen is entitled to a Currency note.

(a) Present: Holloway and Kindersley JJ.

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The Sessions Judge has decided the case upon an illustration drawn from the new Contract Act, embodying a very old rule of law, that possession by the taker in good faith is no defence against the owner of a chattel whose possession was lost through theft.

The decision is inapplicable to the case, for money, and a note of this kind is in legal view money, does not stand upon the footing of other chattels (*Foster v. Green*, 7, H. & N., 881). In the language of the English law the property passes by mere delivery, and, in the interests of commerce and the security of human dealing, nothing short of fraud in taking an instrument payable to bearer will engraft an exception upon the rule (*Goodman v. Harvey*, 4, Ad. & El., 870). Here the Treasury was bound to cash the note and the original owner has no claim against it.

The order must be reversed.

### Appellate Jurisdiction. (a)

Regular Appeal No. 119 of 1872.

VAKATY RAMAREDDY ..... *Appellant.*

DUVVURU AYAPPAREDDY, and 9 others... *Respondents.*

An agreement between a landlord and tenant in the Presidency of Madras for more than one year is a pattah within the meaning of Act VIII of 1865, and consequently exempted from registration under Act XX of 1866.

1873.  
February 28.  
R. A. No.  
119 of 1872.

**T**HIS was a Regular Appeal against the decision of J. R. Cockerell, the Civil Judge of Nellore, in Original Suit No. 21 of 1871.

*V. Sanjiva Rau*, for the appellant, the 2nd defendant.  
*Miller*, for the respondents, the plaintiffs.

The Court delivered the following

JUDGMENT:—The question referred to the full Court for decision was—

Whether an agreement between a landlord and tenant in the Presidency of Madras for more than one year is a pattah within the meaning of Act VIII of 1865, and consequently exempted from registration under the Act XX of 1866?

The Court decide the question in the affirmative.

(a) Present : Morgan, CJ., Holloway and Kindersley, JJ.