

(1954) 04 CAL CK 0004
In the Calcutta High Court

Baidyanath Chanda and Others

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 08-04-1954

Acts Referred:

Penal Code, 1860 (IPC) — Section 420

Citation : (1954) CriLJ 1435

Hon'ble Judges : K.C. Das Gupta, J; Debabrata Mookerjee, J

Bench : Division Bench

Judgement

K.C. Das Gupta, J.—The only question in this Rule is whether the alleged offence u/s 420, Penal Code, said to have been committed by Baidyanath Chandra is triable by a Special Court under the provisions of Act 12 of 1952.

2. The prosecution case is that Baidyanath wild supplied between 3rd and 7th October 1951 a quantity of 1361 bags (2272 mounds) of dheaki rice to the Government procurement go-down at Sainthia, submitted bills claiming the procurement price as well as appropriate bonus in respect of stocks so delivered. It is alleged that Baidyanath in fact supplied this quantity of rice from old stocks purchased prior to the date with effect from which bonus was payable, and had thus to pay no bonus money to any one. The real allegation on which Baidyanath is said to have committed an offence u/s 420, Penal Code, is that by making a false representation that he had obtained this quantity of rice between the 3rd and 7th October 1951, Baidyanath induced Government to pay to him certain amounts on account of bonus,

3. It is contended on behalf of the accused that the offence thus alleged was an offence punishable u/s 420, Penal Code, committed by a person dealing with property belonging to Government as agent of Government while purporting to act as such agent. If this contention be correct the offence would fall within item 3 of the new schedule of the West Bengal Act 12 of 1952 and would consequently be triable u/s 4 of the principal Act, by the Special Courts only.

4. The argument that the offence as alleged has been committed by

a person dealing with property belonging to Government as agent of Government while purporting to act as such agent

is principally based on the supposition that the accused when procuring rice and delivering rice to Government was dealing with property belonging to Government, In my judgment there is no basis for this supposition. It was only after the procurement agent delivered the property to Government that the paddy or rice became Government property. Prior to that it was not Government property. Consequently when he was dealing with rice he was not dealing with property "belonging to Government" as an agent of Government.

5. It was next contended that at least the amount which the Government was induced to pay by way of bonus was Government property and the accused should be considered when dealing with this money, to be dealing with property belonging to Government as agent of Government. It should certainly be held, in my opinion, that in accepting from Government the money paid by way of bonus and in keeping it with him or in paying it to any person the petitioner must be held to be dealing with a property belonging to Government as agent of Government. It appears equally clear to me however that the offence u/s 420, Penal Code, if committed by the accused, cannot be said to have been committed by him while purporting to act as agent of Government dealing with Government property. If as a result of deception, Government was dishonestly induced to pay certain amount of money to the accused the offence u/s 420, Penal Code was complete before any dealing by the petitioner with that Government money was started. The offence u/s 420, Penal Code, cannot therefore be said to have been committed by the petitioner while purporting to act as agent of Government.

6. My conclusion therefore is that on the allegation made against the petitioner, the offence u/s 420, Penal Code, said to have been committed by him is not one, committed by a person dealing with property belonging to Government as agent of Government while purporting to act as such agent. It is not therefore triable by a Special Court.

7. I would therefore discharge the rule.

Debabrata Mookerjee, J.

8. I agree.