

(1914) 03 CAL CK 0002
In the Calcutta High Court
Case No : Rev. No. 249 of 1914

Chiraguddin

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision : 06-03-1914

Acts Referred:

Citation : (1914) 03 CAL CK 0002

Judgement

1. This was a Rule calling upon the Deputy Commissioner of Ranchi to show cause why the conviction and sentence passed on the Petitioner should not be set aside on the ground that there is no incriminating finding against him in the judgments of the Courts below. The Petitioner was sentenced to two years" rigorous imprisonment under sec. 380, I. P. C., for complicity in a theft of currency notes from the office of the Secretary, Public Works Department, Bihar and Orissa Secretariat. That sentence was reduced in appeal by the learned Judicial Commissioner of Chota Nagpur to one of 18 months" rigorous imprisonment and a fine of Rs. 200, in default six months" additional rigorous imprisonment ; and the findings against the Petitioner were three in number and amounted in the learned Judicial Commissioner's opinion to exhaustive circumstantial evidence that he was one of the guilty parties.

2. Now the three points are these--first, the opportunity, in that he entered the room at about the time the money was stolen and in Mr. Priday's absence. But the learned Judicial Commissioner himself holds that there were at least five other persons who entered the room during Mr. Priday's absence, and it is clear in fact that the opportunity was not the Petitioner's exclusively.

3. The second point is that the Petitioner's brother-in-law Tuni was present when two of the stolen notes were cashed in Calcutta two months later at the shop of Jamaluddin by one Alijan, who is Tuni's brother-in-law, in circumstances which indicate dishonest knowledge on the part of Tuni. It is perfectly clear that this cannot be any evidence whatever against the Petitioner. No man can be responsible for the dishonest acts of his brother-in-law ; and no connection in

time or place is shown between the Petitioner and Tuni with reference to the changing of these notes.

4. The third and final ground against the Petitioner is that shortly after the theft he was in possession of a large sum of money for which he cannot satisfactorily account. The defence account for it in a rather curious way. It is suggested that the Petitioner being a peon on Rs. 5 a month may have derived the money from some other illegitimate sources. That obviously is a very sound, if not a very moral, argument, and there is nothing whatever to indicate that the money which was in the possession of the Petitioner was a portion of the stolen money. Indeed the facts seem to negative it, for the theft was in respect of currency notes in the denomination of Rs. 150 to the value of Rs. 350 and a sum of Rs. 210 in cash and 10 rupee notes ; and the evidence against the Petitioner is that on the 12th and 21st May be deposited in the Post Office Savings Bank the sums of Rs. 29 and Rs. 155 respectively, total Rs. 184. The learned Judge remarks that this closely corresponds with the sum of Rs. 210 stolen in cash and 10-rupee notes. This is obviously not sufficient to show that this money was derived from the proceeds of this particular theft. The circumstantial evidence must be exhaustive and exclude the possibility of guilt of any other person, or must point conclusively to the complicity of the accused. It is obvious that this evidence does not fulfil the conditions of circumstantial proof at all. The Rule must therefore be made absolute. The conviction and sentence are set aside and the Petitioner will be released from bail. The fine, if paid, will be refunded.