
(1921) 01 AHC CK 0051
In the Allahabad High Court

Qasim Ali

APPELLANT

Vs

Emperor through the District Judge of Saharanpur

RESPONDENT

Date of Decision : 11-01-1921

Acts Referred:

Citation : 64 Ind. Cas. 37

Hon'ble Judges : Walsh, J;Piggott, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal fails. We entirely agree with the finding of the learned District Judge, Indeed we cannot see how any other conclusion could have been arrived at. We agree with the reasons which he has given and we have nothing to add to them, We would merely say that a man in the position of an insolvent who has the means of ascertaining where property of his has been disposed of, even if he has not been actually a party to the making away with it, and who does not use the means, is just as guilty of concealment within the meaning of the section as if he actively concealed the locality in which the property actually is. It is by no means clear from the conduct of the insolvent and his sons that the grain was not still in the dump at the time of the Receiver's visit and had not been made away with at all. These proceedings ought not to deter the Receiver from taking such steps as are still open to him under the Act to recover the property from whomever it may be who has received it either by way of sale, or for custody on behalf of the insolvent and of his sons. Unfortunately there seems to be no provision in the Provincial Insolvency Act, as there is in the English Act, enabling the Receiver to call the sons before him and to compel them to answer questions on oath as to the disposition of their father's property. Under these circumstances, and having regard to the undoubted frauds which are committed against the Bankruptcy Law by joint Hindu families, although the insolvent here is a Muhammadan, we think that the sentence passed in this case was an extremely lenient one. He certainly would not have got off so lightly if he had

come before one of us. It is a very serious offence and District Judges must realise that it ought to be visited with severity when discovered.

2. The appeal is dismissed with costs.