

(1889) 03 CAL CK 0014
In the Calcutta High Court

Ramen Chetty

APPELLANT

Vs

Mahomed Ghose and Another

RESPONDENT

Date of Decision : 06-03-1889

Acts Referred:

Stamp Act, 1899 — Section 67

Citation : (1889) ILR (Cal) 433

Hon'ble Judges : Wilson, J;Trevelyan, J

Bench : Division Bench

Judgement

Wilson, J.—In my opinion the authorities which are referred to by the learned Recorder in his order of reference are conclusive upon the question which is now before us. The cases of Bull v. O'Sullivan L.R. 6 Q.B. 209, and Catty v. Fry L.R. 2 Ex. D. 265, which cases are entirely in accordance with the earlier authorities, are clear to show that in determining whether a document is sufficiently stamped for the purpose of deciding upon its admissibility in evidence, you must look at the document itself as it stands, and not at any collateral circumstances which may be shown in evidence; and exactly the same law is laid down in this Court in the judgment of Sir Barnes Peacock in the case of Chandra Kant Mookerjee v. Kartik Charan Chaile 5 B.L.R. 103 in the passage at page 105 of the report. That is conclusive of the present case; for it is clear, I think, that the present Stamp Act in India ought to be construed according to the same principles of construction as the Stamp Act in England and the earlier Stamp Acts in this country. In argument, apparently, before the Recorder, Section 67 of the Act was referred to. That section imposes penalties in certain cases upon persons who post-date bills of exchange. It is not necessary to say whether a cheque is a bill of exchange within the meaning of that section, or what the effect of that section would be, in any case to which it applied, upon the admissibility of a bill, because in the present case there is no evidence apparently, and certainly no finding, of the circumstance which alone could make the section applicable, namely, the intention to defraud. The result is that we answer the question referred to us in the affirmative.

Trevelyan, J.

2. I agree with this decision.