**(1917) 07 AHC CK 0030**

**In the Allahabad High Court**

Sital APPELLANT

Vs

Emperor through Gobind Ram RESPONDENT

**Date of Decision :** 28-07-1917

**Acts Referred:**
Treasure Trove Act, 1878 — Section 20

**Citation :** 42 Ind. Cas. 995

**Hon'ble Judges :** Walsh, J

**Bench :** Single Bench

**Final Decision :** Disposed Of

## Judgement

1. This is a very curious case. As the result of the heavy flood in the Ganges last year it appears that certain, ancient coins, said to be about 150 years'' old, were found on the bank of the Ganges. The evidence as to the circumstances under which they originally came to be found and whence they had originally come is extremely vague. I was inclined to think that they could not be described at all as treasure trove, which must be something of value hidden in the soil or in anything affixed thereto. But it does appear with regard to these particular coins that there was clear evidence that they were treasure trove and I think the finding that they were treasure trove was right. Some of them at any rate were dug up from the soil in the month of February under or near an old "kuti" or at any rate adjacent to a temple and as many as fourteen were found at one spot and, therefore, the inference that they had been washed up by the river is negatived. The fact also that similar coins had originally been discovered in the previous September when the water of the Ganges receded, tends to show that the discovery of the particular coins was not the result of the flood at all but the efforts of industrious persons who went out in search of them, and, therefore, so far as the question of treasure trove is concerned I agree with the Court below. I also agree, though it is not necessary to decide this point, that a usufructuary mortgagee such as the applicant is of the area in question is the owner within the meaning of the section. The question is whether the present applicant as such owner has committed an offence within the meaning of Section 21. He has

been convicted of abetting the finder in committing an offence by failing to give notice to the proper persons u/s 20. There is no doubt from the evidence that he discouraged everybody from either handing over the coins which they had in-their possession or from doing their duty under the Act. But the only person whom he interfered with by forbidding to give notice was Ganga and he was not the finder. The Sessions Judge finds that he abetted the chaukidar, but although he may have been guilty of some offence under the general criminal law for interfering with the chaukidar in the performance of his duty, the chaukidar was not the finder and had not been employed or instructed by the finder to give notice on his account; and, therefore, dissuading the chaukidar which the Sessions Judge has convicted him of, does not come within Section 21 or Section 20. The result is that there is no evidence of the offence of which the accused has been convicted, and the conviction and sentence must be quashed.

2. One has often occasion to say, and I think it necessary to say again, that it would be Very would better, specially where there is some doubt as to what the offence really is that an accused is supposed to have committed, that the charge should be clearly formulated. To say that a person has abetted u/s 21 an offence u/s 20 leaves it entirely at large what the form of abetment is, who the person may be whom he has abetted Bind what the offence is which the person has committed whom he is supposed to have abetted in this ease there is no statement until the case reached the Sessions Judge as to whom he was supposed to have abetted and of what form the abetment was or of what offence the chaukidar committed which the applicant abetted.

3. Another matter of the same kind, I notice, which a Trial Court should take care to avoid if possible, is asking each one of the accused in the memorandum of examination, "Did you find any treasure trove coins?" That question was put to nearly all the accused. In a case like this it is a perfectly idle question, because the person to whom the question is put does not know what a treasure trove coin is and the question assumes that the coins which had been in fact found and dealt with are treasure trove. That question, as I have already pointed out, depends entirely upon Whether they were hidden in the soil and the person in whose possession they may happen to be has come? across them as treasure trove. Isolated coins picked up by a casual observer on the bank of a river can hardly be described as treasure trove at all.