

ALLAHABAD HIGH COURT

Emperor

Vs

Jagannath Gir

(Collister and Bajpai, JJ.)

20.01.1937

JUDGMENT

Bajpai, JJ.

1. There were five cases before the Sessions Judge of Ballia, all connected with each other and all relating to a girl named Mi. Bhagmania. The result of the trials was as follows: Mt. Sugia, Bairagi Singh, Sattan and Balli, who were charged in the alternative under Section 366 or Section 366-A or Section 498, I.P.C., were convicted under Section 366-A and were sentenced to 18 months' rigorous imprisonment. Balli was further convicted under Section 497, I.P.C., and sentenced to one year's rigorous imprisonment. Gobind Sharma and Bishnath were convicted in the alternative under Section 366 or Section 366-A or Section 498, I.P.C., and were sentenced to 18 months' rigorous imprisonment. Jagannath Manjokhi, Sheodhari and Mt. Jumratan were acquitted. The convicted persons have appealed to this Court and there is an application on behalf of the Local Government for enhancement of the sentences which have been inflicted upon Gobind Sharma and Bishnath. There is also an appeal by the Local Government against the acquittal of Jagannath.

2. Two persons, Jeut Rai and Ram Brichh, were tendered a pardon and were made approvers. From their evidence and the evidence of Mt. Bhagmania and other witnesses the following story was disclosed on behalf of the prosecution : Mt. Bhagmania is a Hajjam girl whose age may be anything between 16 and 18. Her mother is dead and her father has been living and doing business for a long while in Assam. Mt. Bhagmania was married to a youth named Inderdeo about four years ago but her 'gauna' ceremony has not yet been performed. Her husband has been working at Calcutta for the last 2 or 2 1/2 years. Her father's name is Dhari and he is a resident of a village named Sheopur Diar, but she herself has been living with her maternal grandfather, a man named Sahdeo, in the village of Suremanpur in the police circle of Bairia. On 10th August 1934 Mt. Sugia, who lives at Suremanpur, came and fetched Mt. Bhagmania to her house on the pretext of wanting her to massage the body of her daughter-in-law. When she did not return home, Sahdeo grew anxious and began to search for her. He went and enquired from Mt. Sugia,

but the latter told him that she had sent Mt. Bhagmania home several hours ago. Next morning two men of his village, Nagina and Gauri Shankar, told him that they had seen Mt. Sugia, Sattan, Balli and Bairagi Singh taking Mt. Bhagmania towards the railway line. Sahdeo then took the chaukidar with him and went to the Police Station at Bairia where he made a report and an investigation began, but was suspended because no trace of the girl could be found.

3. Mt. Bhagmania says that at the house of Mt. Sugia were Sattan, Balli and Bairagi Singh; and soon after arriving at the house, Mt. Sugia suggested to the girl that she should go away with Balli, at the same time promising that she would have fine clothes and plenty to eat. Mt. Bhagmania refused and began to weep, whereupon the others threatened her and ultimately Mt. Sugia got her by the hand and began to take her towards Jamalpur. Balli, Sattan and Bairagi Singh accompanied them. At Jamalpur they put her in the house of Manjokhi and Mt. Sugia and Bairagi Singh then went home. Balli and Sattan kept the girl in Manjokhi's house for three days and each of them had intercourse with her. Then Sattan went home and Balli took Mt. Bhagmania to the house of a man named Menhgu at Murar Patti where she was kept for 10 or 15 days. Thence he took her to the house of a man named Jungli at Nainijor Diara and she was kept there for about 15 days. Then Balli took her to Milki and kept her at the house of the chaukidar, a man named Jagan, for nine or ten days. Jeut Rai then appeared on the scene and took her to his own house at Madhbani; but after three or four days Balli again came and took her to the house of a man named Tika in the same village. After that he took her to the village of Bagha in the Champaran District where he (sic) for two or three months at the house of a man named Mundarika. He told the villagers that she was his sister's daughter. After that he took her to Mohanpatti and then he had the hardihood to bring her back to Suremanpur, where he kept her concealed for one night in his own house. Next day he again took her to the house of Jagan at Milki and there he left her and went back to his own village.

4. A day or two later a constable named Qasim Khan came to Jagan and suggested that the girl should be removed from his house, otherwise it might be searched. Acting upon his advice, Jagan removed her to the house of a man named Sheodhari where she was kept for 10 or 11 days. Meanwhile Balli had been arrested-under Section 110, Criminal P.C., and the problem arose as to what should be done with the girl. They were afraid to release her lest she should disclose the whole story and so incriminate Jagan and others. Ultimately it was decided to take her to Ballia and have her admitted into an ashram. There are two rival ashrams at Ballia. One is known as the Hindu Anathalaya and is owned by Gobind Sharma and the other is known as the Vedic Anathalaya. Accordingly Jeut Rai, Jagan and Qasim Khan took the girl to Ballia. They left her outside the railway station near the stall of a betel-seller named Raghbir. They told her that they were going to the Court to arrange for the release of Balli and that they would come back in the evening and take her to the house of her uncle at Sheopur Diar. It may be mentioned here that her uncle's, name is Ghughli and she had expressed a desire to be taken to him.

5. Jeut Rai, Jagan and Qasim Khan did not go to the Court and had no intention of *doing* so.

They went instead to Gobind Sharma's ashram. They met Gobind Sharma and told him all about the girl and the latter agreed to admit her into his ashram and to pay these men one-fourth of the sale price when he was able to dispose of her. Govind Sharma took the precaution of obtaining the thumb-impression of Jeut Rai on a blank paper. He then accompanied these persons towards the station and had a look at the girl from a distance. He apparently approved of her, for he then went back to the ashram and brought Jagannath, Bishnath and Ram Bricch back with him to the place where the girl was sitting. Jeut Rai, Jagan and Qasim Khan had meanwhile made their exit from the scene. Bishnath and Ram Bricch are employees or volunteers of the ashram and the mother of Jagannath is also employed there. After questioning the girl, Gobind Sharma and his men asked her to accompany them to the ashram but she refused and said that she wanted to go to her uncle. They assured her that they would send for her uncle and then they called an ekka and took the girl in it to the ashram.

6. Mt. Bhagmania stayed in the ashram for about three months. She kept asking for her uncle, but Gobind Sharma put her off and said that he would have her married in a comfortable home. To this she replied that she already had a husband and would not marry again. On one occasion her importunity moved Gobind Sharma to say that he had sent a letter to her uncle; but when no reply came and she again inquired about her uncle, Gobind Sharma said to her that it was no good her going back to him, and it would be better for her to marry some man and live happily. This did not satisfy Mt. Bhagmania and she begged Ram Bricch to write a letter to her uncle and he promised to do so; but no letter was apparently sent.

7. One day her uncle Ghughli happened to come to Ballia to visit his married daughter and there he learnt that a Hajjam girl of Sheopur Diar was in the Hindu Anathalaya. He received this information from Babu Lal, an employee of the Vedio Anathalaya. He at once went to the Hindu Anathalaya and there he met Bishnath, Jagannath and Ram Bricch. He inquired from them about his niece and they told him that there was a Hajjam girl in the ashram and they referred him to Gobind Sharma. At his request they took him to the shop of Gobind Sharma who admitted that Mt. Bhagmania, the daughter of a man named Dhari of Sheopur Diar, and the wife of a man from Nagwa was in his ashram. Ghughli demanded that she should be at once delivered over to him, but Gobind Sharma replied that he wanted to talk to the girl first and would hand her over to him in two or three days' time. Thereupon Ghughli went back to his village. But about a week later he again came to Ballia and demanded his niece. Gobind Sharma in the presence of Ram Bricch, Jagannath and Bishnath demanded Rs. 75 as the expenses of her keep, but ultimately this was knocked down to Rs. 25. Ghughli had no money with him, but said that he would bring it and he then went back to his village. After his departure, Gobind Sharma consulted his employees and it was decided that, if Ghughli brought the money, he should be told that the girl had run away. Meanwhile, after the departure of Ghughli, Gobind Sharma removed Mt. Bhagmania to the house of Mt. Jumratan, the mother of a courtesan named Mt. Mina. Gobind Sharma spent the night at Mt. Jumratan's house and Mt. Bhagmania says that he had intercourse with her during the night. Next day he went back to the ashram. Four or five days later Gobind Sharma took the

girl back to the ashram, being apprehensive of what might happen if she were discovered at the house of a prostitute. Apparently he had got wind of Ghughli's intention.

8. Eight or ten days later Ghughli came with Rs. 25. He brought with him five of his relatives, Baran, Kesho, Bama, Bachan and Charittar. He met Ram Bricchh, Bishnath and Jagannath, but they informed him that his niece had run away, although she was in fact still in the ashram. He then went with these three persons to the shop of Gobind Sharma and told him that he had come with the money and wanted his niece but was informed that she had run away. Thereupon Gobind Sharma made a pretence of scolding his men for allowing her to run away. He said to Ghughli that he would have a search made for her if he would pay him Rs. 10 as expenses, but by this time Ghughli's patience had worn thin and he refused to pay anything at all. He went straight off to his zamindar, a gentleman named Rai Sahib Sheodarshan Singh, and told him the whole story. The latter advised him to try and trace the girl and after four days he learnt that a Hajjam girl was at the house of a prostitute in Ballia. He told what he had heard to Babu Lal and the latter said that he had also heard this. Ghughli then went back to Lal Sahib Sheodarshan Singh and informed him what he had learnt at Ballia. The advice which his zamindar then gave him was that he should apply forthwith to the Superintendent of Police.

9. On 2nd May 1935 Ghughli made an application to the Superintendent of Police and under this officer's instructions a Sub-Inspector of the kotwali, Babu Ganga Prasad, searched for the girl and found her in the ashram. That evening the Sub-Inspector, accompanied by Ghughli, took her to the house of the S.P. who was just on his way to the club. The S.P. noticed three persons loitering in the vicinity and he told them to be off. Two of them went; but one stopped behind and his presence created a suspicion in the mind of the S.P., who forthwith called the man to him. He asked the girl if she knew him and she at once replied that he was one of the men who had taken her to the ashram. This man was Bishnath and he was then put under arrest. The girl was sent to the kotwali, where her statement was recorded by Babu Ganga Prasad, and after that she was handed over to her uncle Ghughli. The suspended investigation was then resumed by the police of Ballia and ultimately the accused were put on their trial.

10. The accused all pleaded not guilty. (After giving the statements of the accused their Lordships proceeded further.) Certain witnesses have been examined for defence, but learned Counsel have only referred us to the evidence of Jagannath Prasad, a witness for Gobind Sharma, who says that at the instance of the latter he recorded the statement of Jeut Rai as dictated by him (Ex. C) and that Ram Bricchh took down the statement which was made by the girl (Ex. B). He says that these statements were read out and were admitted by Jeut Rai and Mt. Bhagmania. The rest of the evidence of the defence appears to us to have little or no value and it is not necessary to discuss it. We will first deal with the appeals of Mt. Sugia, her son Sattan, Balli and Bairagi Singh. In this connexion the first point to consider is the age of Mt. Bhagmania at the time of her alleged abduction. In the report which Sahdeo made on 11th August 1934, he gave the girl's age as 13 or 14 and in the evidence which he gave in the Court on 25th November 1935, he stated

that she would complete her 16th year next Phagun. A birth register has been produced on behalf of the defence which shows that a daughter was born to Dhari on 28th December 1915. According to the entry the age of the girl in August 1934 would be 18 years and eight months. Another man of the name of Dhari has been produced by the prosecution who says that he was the father of the girl whose birth is entered in that register and also of the two boys whose birth is shown therein. He says that his daughter's name was Dhanwa, that she was married to a man named Badri and that she died at the age of 17; but there is a death register which shows that Mt. Dhanwa died on 12th November 1933, and at the age of 25. Rai Bahadur Captain Shiam Lal, the Civil Surgeon of Ballia, was of opinion that Mt. Bhagmania was about 17 years of age on 3rd May 1935, on which date he examined her. He went on to say that he was not in a position to tell her exact age and that possibly she may have been 19 years old. The onus of proving the girl's age was on the prosecution and the evidence is inconclusive. It is not established to our satisfaction that she was under 18 years of age at the time of her alleged abduction, i.e., on 10th August 1934. It follows therefore that the conviction under Section 366-A cannot be sustained.

11. The next point to consider is whether these four appellants have been rightly convicted under Section 366. In order to sustain a conviction under that section it must be shown that Mt. Bhagmania was either by force compelled, or by deceitful means induced, to leave Sahdeo's house. She herself says that she was taken by deceitful means from the house of Sahdeo to the house of Mt. Sugia and that from the latter house she was taken by force. She admits that in the course of her peregrinations with Balli she made no complaint to any one and her conduct suggests that she went willingly. She and Sahdeo both say that Mt. Sugia called her from the house on the pretext that she was required to massage the daughter-in-law of Mt. Sugia, but, as we have already said, her behaviour indicates that she went voluntarily and we suspect that she already had an intimacy with Balli. In the first statement which she made to the second officer, Babu Ganga Prasad, on 2nd May 1935, she said that she had a quarrel with Sahdeo because of her relations with Balli.

12. It is true, as we shall show later on, that in all probability that statement was to some extent at least made under the influence of Gobind Sharma, but on her own showing Mt. Bhagmania did not want to go back to Sahdeo at Suremanpur, but wanted to go to her uncle Ghughli at Sheopur Diar, and this fact gives a colour of truth to her statement on 2nd May 1935 that she had a quarrel with her maternal grand-father on account of Balli and to the statement of Balli himself who says that he had an intimacy with Mt. Bhagmania since a year after her marriage which had taken place four years before the alleged abduction. It must be borne in mind that Mb. Bhagmania was a mature young woman of about 18 years of age with an absentee husband who was living in Calcutta and there is no independent evidence of deceit or force. All the circumstances suggest that she went voluntarily with her companions, and we think that it was not until Balli was arrested under Section 110, Criminal P.C., and she was left stranded at the railway station at Ballia that she felt and expressed a desire to go home. We have little doubt that she went away from Sahdeo's house with her eyes open and of her own accord. The charge under Section 366,

I.P.C., therefore fails as against these four appellants.

13. There remains the charge under Section 498, I.P.C. There has been some discussion before us as to whether it 'is proved that Mt. Bhagmania is a married woman, as is required for a conviction under that section. (After discussing some evidence their Lordships came to the conclusion that Mt. Bhagmania was a married woman and then proceeded.) We will now consider whether the evidence establishes the guilt of all or any of these four appellants under Section 498, I.P.C. Sahdeo deposes that on the day in question at lamp lighting time Mt. Sugia came and took away Mt. Bhagmania on the pretext that she wanted her to massage the body of her daughter-in-law. Satanand says that at 7 or 7-30 p.m. he saw Mt. Sugia taking the girl from Sahdeo's house towards her own house; and when he questioned Sugia, she replied that she was taking Mt. Bhagmania to massage the feet of her daughter-in-law. Gauri Shankar and Nagina both swear that between 9 and 10 p.m., as they were returning from their fields at Gangapur, they met Mt. Sugia, Sattan, Balli, Bairagi Singh and Mt. Bhagmania near the railway line. They were coming from the direction of Suremanpur. Gauri Shankar had an electric torch with him and he switched it on and thus he and Nagina were able to see the faces of these persons. Gauri Shankar apparently suspected something and wanted to question the accused, but Nagina stopped him and said that it was no concern of theirs.

14. Then there is the evidence of Mt. Bhagmania herself, which is substantially corroborated by the testimony of the above-named witnesses. We can find no reason whatsoever to disbelieve Sahdeo and Satanand, and there is no apparent reason for discrediting Gauri Shankar and Nagina. Enmity is alleged, but none has been proved. The utmost that has been established is that Gauri Shankar once gave evidence against Sattan in a theft case, but there is nothing to suggest that that evidence was other than honest. Nagina and Gauri Shankar informed Sahdeo next day of what they had seen and this fact finds place in the report which Sahdeo made at the police station. Mt. Sugia, her son Sattan and Balli live at Suremanpur and they must have been well aware that Mt. Bhagmania was a married woman. There can be no doubt whatsoever that they 'took' Mt. Bhagmania within the meaning of Section 498, I.P.C., from the custody of Sahdeo, who had the care of her on behalf of her husband. It is also established that Balli took her to various places and he admits that he had illicit connexion with her. In our opinion it is proved beyond any reasonable doubt that Mt. Sugia, Sattan and Balli committed an offence under Section 498, I.P.C., and that Balli further committed an offence under Section 497, I.P.C. As regards Bairagi Singh, his case is somewhat different. He lives in another village. Mt. Bhagmania's 'gauna' had not been performed and so she was not living with her husband, who was at Calcutta. The prosecution has not established to our satisfaction that Bairagi Singh knew that the girl was married and has not shown the existence of circumstances from which such knowledge can reasonably be inferred. The charge against this appellant is therefore not established.

15. Mt. Sugia, Sattan and Balli were charged under Section 366, or Section 366-A or Section 498, I.P.C., in the alternative. The assessors unanimously found them guilty on that alternative

charges. The Judge says he agrees with the unanimous verdict of the assessors, but he has actually convicted these three appellants under Section 366-A only. He ignores Section 366 and Section 498, I.P.C. The question thus arises whether, in view of our finding, we are competent to alter the conviction under Section 366-A into a conviction under Section 498, I.P.C. Section 423(1)(b), Criminal P.C., provides that an appellate Court can alter the finding while maintaining the sentence. Learned Counsel pleads that there has been an acquittal by implication on the charges under Section 366 and Section 498; and on the authority of the Privy Council case in *Kishan Singh v. Emperor*¹ he contends that this Court has no jurisdiction to convert an acquittal into a conviction. In that case the accused had been charged under Section 302, I.P.C., and had been convicted under Section 304, I.P.C. This Court in revision altered the conviction to one under Section 302, I.P.C. Their Lordships held that this Court's order was incompetent. That case is distinguishable from the case now before us on two grounds. In the first place, the accused having been convicted under Section 304, I.P.C., there was an acquittal by necessary implication on the charge under Section 302, I.P.C. In the second place, their Lordships were concerned in that case with the revisional powers of this Court under Section 439, Criminal P.C., and it therefore has no application to Section 423, Criminal P.C.

16. A conviction under Section 366-A, I.P.C., necessarily involves an offence under Section 366, I.P.C., but for reasons which we have given we are of opinion that no offence has been proved either under Section 366, I.P.C., or under Section 366-A, I.P.C. The conviction under Section 366-A, I.P.C., does not by necessary implication involve an acquittal on the charge under Section 498 I.P.C. and we are of opinion that, since the Court below has omitted apparently by an oversight to record a finding one way or the other, whether specifically or in the alternative, under Section 498, I.P.C., this Court is competent under Section 423(1)(b), Criminal P.C., to alter the conviction under S 366-A, I.P.C., into a conviction on the alternative charge under Section 498, I.P.C. The case in *Raghunath v. Emperor* A.I.R. 1933 All. 565, decided by a Bench of which one of us was a member, was very similar to the case before us. Certain persons were charged under Sections 304 and 147, I.P.C., but the Sessions Judge convicted them under Section 304, I.P.C. only. He was of opinion that the accused had committed rioting, but he omitted to record a conviction under Section 147, I.P.C. It was held by this Court that it was open to the High Court under Section 423, Criminal P.C., to convict the accused under Section 147, I.P.C., inasmuch as there was no acquittal on the charge under that section, but merely an omission to record a conviction. The case in *Kishan Singh v. Emperor* A.I.R. 1928 P.C. 254 was differentiated by the Court. In the present case the lower Court's judgment shows that the learned Judge was of opinion that the ingredients of Section 498, I.P.C., were proved and it was apparently by an oversight that he omitted to convict the accused under that section, whether specifically or in the alternative.

17. We will now take up the appeals of Gobind Sharma and Bishnath, the application for enhancement of sentence and the Government appeal in respect of the acquittal of Jagannath. (After discussing the evidence their Lordships proceeded further.) Having regard to the evidence

and the circumstances, we are satisfied that Gobind Sharma and his myrmidons deceitfully induced Mt. Bhagmania to go to the ashram and detained her with a view to their own profit and the only way in which they could profit from her to any considerable extent was by selling her in marriage. Bishnath is equally liable with Gobind Sharma for whatever offence or offences were committed, though he may not deserve quite the same sentence. Jagannath has been acquitted by the Judge, but we are unable to differentiate between his case and the case of Bishnath. The only difference in the evidence is that Bishnath was caught loitering by the Superintendent of Police and Mt. Bhagmania stated there and then that he was one of the persons who had taken her to the ashram. The evidence of Mt. Bhagmania, Ram Bichh, Raghbir, and Ghughli fully establishes the complicity of Jagannath and we are of opinion that the Government appeal must be allowed.

18. The question which remains to be determined is what offence or offences have been committed. As we have already shown, the charge under Section 366-A, I.P.C. cannot be sustained. As regards Section 498, I.P.C. it was admittedly a known fact at the ashram that Mt. Bhagmania was a married girl. In fact in the statement in Ex. B which she is alleged to have made at the time of her admission, she said that she would willingly go to her husband. Having regard to her youth and the influences which must have been brought to bear upon her, we are satisfied that she was "detained" at the ashram within the meaning of Section 498, I.P.C. The undoubted intention of the accused was that she should be subjected to intercourse with some person other than her husband. Learned Counsel for the appellants pleads that the words "such woman" in Section 498 mean a woman whom the accused knows to have been taken or enticed and that there is no evidence in this case to show that Gobind Sharma, Bishnath and Jagannath had this knowledge. There is no force in this plea. It was held as long as in 1888 by *Straight, Empress v. Niadar* (1888) 10 All. 580 that the words "such woman" in Section 498, I.P.C., do not mean such a woman as has been so enticed as mentioned in that section, but mean such woman whom the accused knows or has reason to believe to be the wife of any other man. We have no hesitation in agreeing with that view, and in our opinion the language of the section can bear no other meaning.

19. We must now consider Section 366, I.P.C. We are satisfied that Gobind Sharma, Bishnath and Jagannath induced Mt. Bhagmania to accompany them from the railway station to the ashram by deceiving her into the belief that her people would be communicated with. It is true that on her own showing there was no forcing her into marriage, but the evidence and the circumstances lead irresistibly to the conclusion that the accused intended or knew it to be likely that she would be induced to marry and thus be seduced to illicit intercourse. Learned Counsel for the defence, relying on *Emperor v. Bajnat* A.I.R. 1932 All. 409 contends that the seducing to illicit intercourse in Section 366 has reference to the first act of unchastity only and that the appellants cannot, therefore, be convicted under that section because Mt. Bhagmania had already had sexual intercourse with persons other than her husband. That case is authority for the proposition that when a man has been carrying on an intrigue with a girl while she is in the custody of her lawful guardian and then goes away with her because obstacles are thrown in the way of his intrigue, no

offence is committed under Section 366, I.P.C., even though it is his intention to continue his illicit intercourse with the girl. The learned Judges observed:

We should, therefore, hold that the terra "seduction" can only properly be held applicable to the first act of illicit intercourse, unless there ha proof of a return to chastity on the part of the girl meanwhile or unless possibly there is an intention on the accused's part that the girl should be seduced by some different man.

20. In the present case it is perfectly true that on her own showing certain persons other than her own husband, namely Balli and Sattan, had had intercourse with Mt. Bhagmania; but ultimately she was left stranded at the Ballia railway station by Jeut Rai, Qasim Khan and Jagan. When Balli had been arrested under Section 110, Criminal P.C., Gobind Sharma and his confederates then came, and took her to the ashram with a view to profit from her sex and her youth by conveying her to some man other than her original seducer. They cannot claim immunity from a conviction under Section 366 in respect to this young and helpless girl on the ground that other men had previously taken advantage of her. In our opinion Gobind Sharma, Bishnath and Jagannath have committed offences under Sections 366 and 498, I.P.C., though they have been convicted in the alternative by the learned Judge. We also are of opinion that Gobind Sharma, being the proprietor of the ashram, ought to receive a higher sentence than his two employees, or "volunteers" as they are called. In the result we dismiss the appeal of Gobind Sharma and Bishnath in respect of the lower Court's alternative conviction under Section 366 or Section 498, I.P.C. We enhance Gobind Sharma's sentence from 18 months to two years' rigorous imprisonment, which is the maximum provided under Section 498, I.P.C. We do not think that there is any necessity to enhance the sentence which has been imposed upon Bishnath and we accordingly maintain it. We allow the Government appeal in respect of the acquittal of Jagannath. We are of opinion that he has committed offence under Sections 366 and 498, I.P.C., but since he was charged in the alternative in the Court below we convict him in the alternative under those two sections and we sentence him to undergo

18 months' rigorous imprisonment. We dismiss the appeals of Mt. Sugia, Sattan and Balli. We allow the appeal of Bairagi Singh and acquit him of the offence with which he was charged. His bail bonds are herewith cancelled. Gobind Sharma and Bishnath must surrender to their bail.

Cases Referred.

11A.I.R. 1928 P.C. 254