

CALCUTTA HIGH COURT

Hira Lal Sircar

Vs

Queen-Empress

(W Comer Petheram, C.J. Beverley, J.)

10.05.1895

JUDGMENT

W. Comer Petheram, C.J. and Beverley, J.

1. Several questions have been raised in this case, among them being the question whether certain documents are properly stamped. If that question is answered in favor of the accused persons, it will not be necessary to consider the others.

2. The documents in question are written in the account books of a firm of bankers or money-lenders, and are in the following form: One anna Stamp. Sri Nimai Chandra Biswas of Puranagram Rs. Seventy only. Account of Sri Nimai Chandra Biswas of Puranagram.

Payments :	Amounts due :
	Advance, 19th Assin 1301, through self in cash Rs. 75-0. Rupees seventy-five is taken by me as loan. I shall
Witnesses :	pay interest on it at the rate of Re. 1-0

Sri Hem Chandra Mukhopadhyaya of one per cent per mensem.
Bajitpur (writer), Sri Kisori
Mohan Ghose of Harisara."

3. The question is whether these writings are bonds within the meaning of Section 3, Sub-section 4, Clause (b) of the Stamp Act, or acknowledgments of debts within the meaning of Schedule 1, Article 1 of the same Act.

4. We are very clearly of opinion that they are not bonds, but acknowledgments only, and are therefore sufficiently stamped with one-anna stamps. The definition of a bond which is relied on is: "Any instrument attested by a witness, and not payable to order or bearer, whereby a person

obliges himself to pay money to another." The important word in this definition is the word "obliges," and no document can be a bond within it unless it is one which itself creates an obligation to pay money, as is the case with those documents which are known as bonds according to the common use of the word, but is not the case with acknowledgments of advances, or of the purchase and receipt of goods, the obligation to pay for which is not created by the instrument, but arises from the promises to repay advances and to pay for goods, which the law always implies when money is borrowed or goods are purchased.

5. The present documents are, in form, acknowledgments only, and we do not think the mere fact that they contain memorandums as to the rate of interest at which the loan is made, and are attested by witnesses, is sufficient to convert what is otherwise a mere acknowledgment into a bond, which itself creates an obligation to pay the money.

6. The convictions and sentences must be set aside, and the fines, if paid, must be refunded.