

MANU/BH/0132/1929

Equivalent Citation: AIR1929Pat339, 115Ind. Cas.679

**IN THE HIGH COURT OF PATNA
FULL BENCH**

Decided On: 05.03.1929

Appellants:**In Re: I.A. Mukhtar**

Hon'ble Judges/Coram:

Courtney Terrell , C.J., Robert Lindsay Ross and Kulwant Sahay , JJ.

JUDGMENT

Courtney Terrell, C.J.

1. This is a reference by the Judicial Commissioner of Chota Nagpur in relation to the conduct of a mukhtar practising at Ranchi. It appears that in January, 1926, a certain person applied for withdrawal of a sum of Rs. 150 from the Ranchi Treasury. The mukhtar I. who is an old man identified the applicant as being the person entitled to the money and he signed the re payment voucher and the refund register In April of the same year the same man again came and supplied for the withdrawal of a sum of about Rs. 500 from the Ranchi Treasury and once again he was identified by I. the mukhtar who again signed the petition for withdrawal, the re-payment voucher and refund register and the money was paid to the person who was supposed to be identified. He, of course, decamped with the money and it was afterwards found that another person altogether was the person entitled to it.

2. The mukhtar has been prosecuted in connection with these offences. He was convicted but on appeal the Court of Session reversed the conviction on the ground that it had not been proved that the mukhtar had any dishonest intention. It appears from the finding of the learned Sessions Judge that the mukhtar admitted that he himself did not know the fraudulent person but that he had been identified by the mukhtar's clerk who then told the mukhtar that he knew the fraudulent person and thereupon the mukhtar considered himself entitled to say that he also identified him. But it was found by the Sessions Judge that the mukhtar was not guilty of any dishonest intention and, therefore, he was acquitted but the facts have been reported to this Court.

3. It is necessary again to make some observations' upon the duties of a mukhtar in such cases because we are well aware that there are in this Province a number of mukhtars whose only practice consists of identifying people and we desire to point out in very emphatic terms that a practice of this kind is fraught with the gravest risk to the practitioner, It is not enough for a person who comes forward as an identifier to rely merely upon the fact that he has been told by his clerk that he (the clerk) identifies the person. That does not entitle the mukhtar to pose as an identifier. The identification must be a genuine identification. We are well aware of the difficulties which people of the mufassil have in coming to Court to withdraw money from a remote district in getting themselves identified as persons entitled to money but nevertheless one has to also remember that the State is responsible for paying to persons rightly entitled to money the money to which they are entitled and the State cannot be put to loss. Moreover, persons really entitled to money must not be

defrauded merely because of the difficulties of identification. We would, therefore, draw attention to the evil which I have mentioned and we would point out that if cases come before us in future of careless identification by legal practitioners we shall deal with such cases with great severity because they involve not only an offence on the part of the legal practitioner against the duties of his profession but also an offence against the State and public funds. In this case as I have said the mukhtar is an aged person and he is not represented here. In fact probably his circumstances now do not permit him to be represented and it is unlikely that he will have much further chance of repeating the offence which he has committed. Therefore, we shall not pass any penalty.

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