

## Jhallar vs State on 15 July, 1953

**Equivalent citations: AIR1954ALL17, AIR 1954 ALLAHABAD 17**

ORDER

R. Singh, J.

1. This is an application in revision by one Jhallar who was convicted under Section 456. Penal Code and was sentenced to three months' rigorous imprisonment and a fine of Rs. 50/-by a Magistrate and whose appeal against his conviction and sentence was dismissed by the Sessions Judge of Rae Bareli.

2. It appears that Jhallar had entered the house of one Ram Nath on the night between 17th and 18th January, 1952 when an alarm was raised & Jhallar was apprehended. He was then taken to the police station and a report was lodged. The defence of Jhallar was that he had gone to the house on the invitation of one Srimati Jaggi with whom he had illegitimate intimacy and that Ram Nath, who seems to have been lying in wait, caught hold of him while he had come out of the house. The story that the applicant had presumably some intimacy with Srimati Jaggi has been accepted by the lower Courts but the applicant was convicted on the ground that he had entered the house of Ram Nath with a view to commit an offence.

3. It has been argued on behalf of the applicant that the applicant could not be said to have entered the house of Ram Nath with the intent of causing annoyance to him inasmuch as he had gone to the house either on the invitation of Srimati Jaggi or only to meet her of his own accord. In either case it could not be the intention of the applicant to annoy the owner or the possessor of the house. Section 441 which defines a criminal trespass indicates that a person is said to commit criminal trespass if he enters into or upon property in the possession of another with the intent (1) to commit an offence, or (2) to intimidate) insult or annoy any person in possession of such property. Evidently the applicant had not entered the house of Ram Nath with any deliberate intention of annoying anybody. Srimati Jaggi was, however, a married woman and it is in evidence that she had her husband living. Consequently intercourse with such a lady would evidently be an offence under Section 497, Penal Code and on the own showing of the applicant he had entered the house of Ram Nath, It has been held in a Full Bench ruling of the Lahore High Court reported in -- 'Mohammad Yar v. Emperor', AIR 1938 Lah 514 (A) that in the circumstance mentioned above a person who entered the house would be held to be guilty of criminal trespass. I agree with the view expressed above. The applicant was, therefore, rightly found guilty under Section 456, Penal Code by the Courts below.

4. The application for revision is dismissed.