MANU/UP/0388/1913

Equivalent/Neutral Citation: 1913(11) ALJ 489, 19Ind. Cas.576

IN THE HIGH COURT OF ALLAHABAD

Civil Revision Petition No. 10 of 1913

Decided On: 17.04.1913

Lalman Shukul **Vs.** Gauri Dat

Hon'ble Judges/Coram:
Banerji, J.

Counsels:
For Appellant/Petitioner/Plaintiff: S. Mushran, Tej Bahadur Sapru and R.K. Malviya

For Respondents/Defendant: Satish Chandra Banerji

JUDGMENT

Banerji, J.

1. The facts of this case are these: In January last the nephew of the defendant absconded from home and no trace of him was found. The defendant sent his servants to different places in search of the boy and among these was the plaintiff who was the munib of his firm. He was sent to Hardwar and money was given to him for his railway fare and other expenses. After this the defendant issued handbills offering a reward of Rs. 501 to any one who might find out the boy. The plaintiff traced the boy to Rishikesh and there found him. He wired to the defendant who went to Hardwar and brought the boy back to Cawnpore. He gave to the plaintiff a reward of two sovereigns and afterwards on his return to Cawnpore gave him Rs. 20 more. The plaintiff did not ask for any further payment and continued in the defendant's service for about six months when he was dismissed. He then brought this suit, out of which this application arises, claiming Rs. 499 out of the amount of the reward offered by the defendant under the handbills issued by him. He alleged in his plaint that the defendant had promised to pay him the amount of the reward in addition to other gifts and travelling expenses when he sent him to Hardwar. This allegation has been found to be untrue and the record shows that the handbills were issued subsequently to the plaintiff's departure for Hardwar. It appears, however, that some of the handbills were sent to him there.

2. The Court below having dismissed the claim, this application for revision has been made by the plaintiff and it is claimed on his behalf that as he traced out the boy he is entitled to the reward offered by the defendant.

3. The learned Advocate for the defendant contends that the plaintiff's claim can only be maintained on the basis of a contract, that there must have been an acceptance of the offer and an assent to it, that there was no contract between the parties in this case and that in any case the plaintiff was already under an obligation to do what he did and was, therefore, not entitled to recover. On the other hand, it is contended on behalf of the plaintiff, that a privity of contract was unnecessary and neither motive nor knowledge was essential. The learned Counsel for the plaintiff relies on the cases of Williams v. Carwardine 4 B. & Ad. 621 : 1 N. & M. 418 : 2 L.J. (N.S.) K.B. 101 : 5 Car. & P. 566 : 38 R.R. 328 : 110 Eng. Rep. 590 and Gibbons v. Proctor 64 L.T. 594 : 55 J.P.

616. These cases, no doubt, support the contention of the learned Counsel and the result of them seems to be that the mere performance of the act is sufficient to entitle the person performing it to obtain the reward advertised for. These cases have, however, been adversely criticised by Sir Frederick Pollock (Law of Contracts, 9th Edition, pages 15 and 22) and by the American author Ashley in his Law of Contracts (pages 16, 23 and 24). In my opinion a suit like the present can only be founded on a contract. In order to constitute a contract there must be an acceptance of the offer and there can be no acceptance unless there is a knowledge of the offer. Motive is not essential but knowledge and intention are. In the case of a public advertisement offering a regard, the performance of the act raises an inference of acceptance. This is manifest from section 8 of the Contract Act, which provides that "Performance of the conditions of a proposal.....is an acceptance of the proposal." As observed by Ashley in the work on Contracts, already referred to, "If there is intent to accept, the contract arises upon performance of the requested service during the continuance of the offer and the offeree is then entitled to the reward promised" (page 23). Where, therefore, an advertisement, offering a reward for the performance of a particular act, is published, and the act is performed, there is a complete contract and a claim for the reward arises on the basis of a contract.

4. In the present case, however, the claim cannot be regarded as one on the basis of a contract. The plaintiff was in the service of the defendant. As such servant he was sent to search for the missing boy. It was, therefore, his duty to search for the boy. It is true that it was not within the ordinary scope of his duties as a munib to search for a missing relative of his master but when he agreed to go to Hardwar in search of the boy he undertook that particular duty and there was an obligation on him to search for and trace out the boy. Being under that obligation, which he had incurred before the reward in question was offered, he cannot, in my opinion, claim the reward. There was already a subsisting obligation and, therefore, the performance of the act cannot be regarded as a consideration for the defendant's promise. For the above reasons I hold that the decision of the Court below is right and I dismiss this application with costs.