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**In re BHAGTU — A bankrupt**

[SUPREME COURT, 1967 (Hammett J.), 13th, 28th February]

## Civil Jurisdiction

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*Bankruptcy—discharge—failure by bankrupt to hand over to Official Receiver assets received during bankruptcy—application for discharge refused—Bankruptcy Ordinance (Cap. 37) s.24.*

*Bankruptcy—bankrupt's failure to hand to Official Receiver assets received during bankruptcy—whether contempt of court—Bankruptcy Ordinance (Cap. 37) s.24.*

C

An applicant for discharge from bankruptcy had received moneys more than sufficient to discharge his debts in full but instead of paying these moneys to the Official Receiver he made payments to his creditors in an attempt to obtain effective discharges of the unpaid balances.

*Held:* The application for discharge would be refused.

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*Semble:* The action of the bankrupt in failing to hand over to the Official Receiver the assets he had received, may have amounted to contempt of court under section 24(4) of the Bankruptcy Ordinance.

Application to Supreme Court for discharge from bankruptcy.

*F. M. K. Sherani* for the applicant.

*K. C. Ramrakha* for a creditor.

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*M. S. Dhaliwal* for the Official Receiver.

The facts sufficiently appear from the judgment.

HAMMETT J. : [28th February 1967]—

This is a contested application by the bankrupt debtor for his discharge.

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The facts are not in dispute and I hold them to be as follows.

On 5th April, 1961, the debtor presented his own Petition in Bankruptcy. On 6th April, 1961, a Receiving Order was made against him and he was adjudicated bankrupt.

There were two creditors of whom only one proved in the Bankruptcy and the debtor's total debts amounted to approximately £870.

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After his adjudication the bankrupt approached his two creditors direct and paid them direct certain monies which he maintains have been accepted by them in full settlement of their claims. The debtor has now

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Bankruptcy Ordinance s.24 (4): If a debtor wilfully fails to perform the duties imposed on him by this section, or deliver up possession of any part of his property which is divisible amongst his creditors under this Ordinance, and which is for the time being in his possession or under his control, to the Official Receiver or to the trustee, or to any person authorised by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly.

inherited certain property upon the death of his father, to the value of some £3,000. He has not, however, handed these assets over to the Official Receiver as his Trustee in Bankruptcy.

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In the result, no dividends have been paid by the Official Receiver, the debtor having dealt with his creditors direct. The debtor should, of course, have paid to the Official Receiver the monies that came into his hands which he paid direct to his creditors. It also appears that he should have handed over to the Official Receiver, as his Trustee in Bankruptcy, the assets he received from his father's estate. On these facts it would seem that the debtor may have been guilty of contempt of Court under the provisions of Sec. 24(4) of the Bankruptcy Ordinance.

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On 22nd October, 1965, the debtor applied for his discharge. On 28th January, 1966, this application was dismissed. Since that date the debtor has paid certain further monies to at least one of his creditors direct but neither of them has been paid in full, although it seems the debtor has sufficient assets to do so.

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On 7th March, 1966, the debtor made this, his second application for his discharge. After a number of adjournments the application came before me in open Court on 13th February, 1967. It was opposed by Mr. Ramrakha who appeared for Ram Saroop one of the creditors who has proved in the Bankruptcy.

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The position is not materially different from what it was in January, 1966. The debtor has not paid his creditors in full although it was conceded by Mr. Sherani, who appeared for him, that the debtor had sufficient assets to do so.

What disturbs me is that throughout the whole of the Bankruptcy the debtor has persistently attempted to circumvent the provisions of the Bankruptcy Ordinance. He has apparently not handed in his assets to the Official Receiver, his Trustee in Bankruptcy, but has been paying money direct to his creditors from whom he has obtained, or has attempted to obtain, effective discharges of the unpaid balances of those debts.

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This case does not appear to me to be one which the debtor is entitled to any indulgence. The fact is that he is a bankrupt and no dividends at all have been paid by the Official Receiver. I am extremely doubtful whether a bankrupt can himself obtain an effective release, direct from his creditors, from the payment of his debts upon paying them a lesser sum than that which is due to them. In a case like this where the debtor is apparently able to pay his creditors in full if he wishes to do so, and has failed to do so, no good grounds have been shown to me why he should be granted his discharge. Such payments should, of course, be made by the Official Receiver on behalf of the bankrupt and not by the bankrupt himself.

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In these circumstances the application for discharge is dismissed. I order that the bankrupt pay the taxed costs of the opposing creditors.

*Application dismissed.*