

Mukharam Singh Vs. the State

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Court : Guwahati

Decided On : Feb-28-1949

Judge : Lodge C.J. and Thadani, J.

Appellant : Mukharam Singh

Respondent : The State

Judgement :

1. This is an appeal against a conviction and sentence Under Section 5(a), Assam Prohibition Act, 1948. The appellant, Mukharam Singh, and one Koilosia Nunia were jointly tried by the District Magistrate, Nowgong, on a charge Under Section 5 (a), Assam Prohibition Act 1948. The case against him was as follows.

2. On 31st May 1948, members of the Excise Special Branch held up no. 5 Up-Train at Lumding and searched the same.) They found the female accused, Koilosia, in a third class compartment, and noticing a smell of opium near her insisted upon a search of her person, and they recovered from her person a packet containing 2 seers of opium. When the opium was seized, the woman stated that it had been given to her by a man who had persuaded her to take it with her to Sarupathar on payment of Rs. 10. Thereupon she took the Excise S.I., along the train and pointed out accused 2, Mukharam Singh, who was sitting in another compartment. The woman went up to him, addressed him by name and seized him by the hair. The Excise staff seized him, searched his person and found on him a sum of Rs. 40-6-0 in cash and a railway ticket from Pandu to

Sarupathar. On this material, both the accused persons were charged Under Section 5 (a), Assam Prohibition Act, 1948.

3. The male accused pleaded not guilty. The female accused admitted that she was in possession of the opium and said that it had been given to her by the male accused. Two witnesses were examined for the prosecution. They proved the finding of the opium with the female accused, her statement that it had been given to her by the male accused, and the fact that she pointed out the male accused on the train. There is no other evidence in the case. It is clear, therefore, that the case against this accused rests on the uncorroborated confession of the co-accused Jaukisua (Koilosia ?) Munia; there is no other evidence against him. It is against the consistent practice of the Courts in this country to convict an accused Biniply on an uncorroborated confession of a co-accused, which cannot be checked in any way. In our opinion, the evidence in this case was quite insufficient to justify the conviction of the present appellant.

4. The appeal is therefore, allowed; the conviction and sentence passed on the present appellant are set aside, and the appellant is acquitted. He should be set at liberty forthwith.