

Abdul Hakim Laskar Vs. the State

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Court : Guwahati

Decided On : Jul-16-1971

Judge : P.K. Goswami, C.J. and M.C. Pathak, J.

Appellant : Abdul Hakim Laskar

Respondent : The State

Advocate for Pet/Ap. : Mr. M.A. Laskar

Judgement :

P.K. Goswami, C.J.

1. This criminal revision is directed against the conviction of the accused under Section 4 of the Assam Ganja and Bhang Prohibition Act, 1958.

2. The accused was found in possession of 250 grams of Ganja which he was carrying in a cloth bag. A Police constable on duty at the Bus Station found him in suspicious circumstances and on being interrogated was satisfied that he was carrying Ganja even from the smell. He then took him with his bag to the Police Station where P.W. 4 the Assistant Sub-Inspector of Police seized the Ganja and arrested the accused. It appears from the evidence of P.W. 1 that he submitted a report containing the informations set out above and handed over the accused with the cloth bag to the officer at the Thana, It also appears that the officer-in-charge of the Police Station was also present at the Thana, The learned Courts below refused to rely on the evidence of D.W. 1 the only witness produced by the

accused because both the Courts felt that he was a hired witness. The Courts below believed the prosecution witnesses that the accused was carrying a bag with the Ganja. The accused's only defence was that this bag was left by another person when he was sitting in the bus. He has not denied the seizure of the bag with the Ganja. Both the Courts disbelieved the plea of the accused as well as the evidence of the defence witness. It is therefore, clear that the accused was found in possession of the Ganja as alleged and as such, he is liable to be convicted under Section 4 of the Act.

3. Mr. M.A. Laskar, the learned Counsel for the petitioner submits that the Assistant Sub-Inspector of Police could not legally seize the Ganja. He draws our attention to a decision of one of us reported in Assam L.R. (1971) Assam 32. It is true that in that case the learned Counsel appearing only drew attention to Section 11 of the Act which deals with search and seizure inside a house by a category of Officers of the Departments described in that section. The attention of the Court was not drawn to Section 12 in that case. This case is clearly governed by Section 12 which describes the power of seizure and arrest in public places. Section 12 reads as follows:

12. Power of seizure and arrest in public places.-Any officer of any of the Department referred to in Section 11 may within the prohibited area notified under this Act.

(a) seize, in any public place or in transit, any ganja, bhang, material utensil, implement or apparatus in respect of which he has reason to believe an offence punishable under this Act or the rules made thereunder has been committed, and along with it any document or other article which may furnish evidence of the commission of the offence, and (b) detain, search and arrest any person whom he has reason to believe to have committed an offence against this Act relating to such ganja, bhang, material utensil implement or apparatus.

4. We are therefore, satisfied that the Assistant Sub-Inspector of Police is an officer who authorised under Section 12 of this Act to seize the ganja in question. Section 11 which was the subject-matter of decision in the case reported above, is not applicable to this case. There is, therefore, no substance in the contention that

the Assistant Sub-Inspector of Police cannot seize the ganja in question. The conviction, therefore cannot be challenged as invalid. There is no merit in this revision which is rejected.

M.C. Pathak, J.

5. I agree.

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