

Rameshchandra Ramchandra Vs. Emperor

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Court : Mumbai

Decided On : Oct-07-1949

Reported in : AIR1950Bom246; (1950)52BOMLR229

Judge : Weston and ;Shah, JJ.

Acts : Press (Emergency Powers) Act, 1931 - Sections 2, 2(6), 15, 18 and 18(1)

Appeal No. : Criminal Revn. Appln. No. 808 of 1949

Appellant : Rameshchandra Ramchandra

Respondent : Emperor

Advocate for Def. : H.M. Choksi, Govt. Pleader

Advocate for Pet/Ap. : L.M. Javeri, ;C.S. Trivedi and ;T. Godiwalla, Advs.

Judgement :

Shah, J.

1. The petitioner Rameshchandra was convicted by the learned Chief Presidency Magistrate, Bombay, of an offence under Section 18 (1), Press (Emergency Powers) Act XXIII (23) of 1931, for 'making' a pamphlet called 'Operation Asylum' sometime in the year 1946, and he was sentenced to suffer rigorous imprisonment for a period of three months. The petitioner has come to this Court in revision

against the order of conviction and sentence.

2. It is admitted that the petitioner was the author of the pamphlet in question. Section 18 (1), Press (Emergency Powers) Act, 1931, provides:

'Whoever makes, prints or otherwise produces, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.'

Section 15 of the Act provides:

'The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish news-sheet, or to publish news-sheets from time to time.'

The expression 'news-sheet' is defined in Section 2 Clause (6), as meaning any document other than a newspaper containing public news or comments on public news or any matter described in Sub-section (1) of Section 4. The pamphlet entitled 'Operation Asylum' has been shown to us, and we have gone through that document, and we find that in various parts of that publication there is reference to contemporaneous events. At least it is sought to be presented by the author of that document that the events to which he was referring were contemporaneous to the publication. In the preamble it has been stated by the author that the document was 'An exposure of British military plans to crush the Indian Revolution based on the authentic top secret military documents.' Then the document which runs into about 14 closely printed pages refers under different headings to 'Egyptain Freedom,' 'Comberlay Conference,' 'Independence,' 'Indianisation,' 'Murder Plans,' 'Princely Havens,' etc. It is true that some parts of this document relate to matters which may have been called matters of history, but substantially the presentation was of material, part of which was historical but dovetailed with information which was sought to be presented as relating to contemporaneous events, and the rest of comments on such material. Such a publication, in our opinion, would amount to comment on news within the meaning of Clause (6) of Section 2, Press (Emergency Powers) Act.

3. But Mr. Javeri on behalf of the petitioner has contended, firstly, that the document in question is a book within the meaning of Section 2 (i) of the Act, and that the petitioner satisfied all the requirements relating to publication of books provided in the Act. He has farther contended that a substantial part of this publication was already published in other newspapers and was a matter of common knowledge, and even events which were sought to be presented as contemporaneous were events which had transpired a considerable time before the publication of this pamphlet and were matters which were commonly known and had already been published in various newspapers. And from this Mr. Javeri has argued that if the information which was presented related to events which were matters of common knowledge or matters which had been published in other newspapers, the document could not be said to be a news-sheet, because there was no novelty about the information and that it would be a book under Section 2 (i) of the Act, and that consequently the petitioner was not liable to be punished under Section 18 (1) of the Act.

4. Now, it is true that the expression 'news' does involve an idea, of novelty. In the Oxford English Dictionary the expression 'news', is defined as 'tidings, the report or account of recent events, new occurrences as a subject of report or talk,' But, obviously, the expression 'news' must have reference to the mode of presentation and not to an existing novelty of the circumstance or event which it is sought to convey or describe. It may even be that the event described or presented has actually never happened; but if it is sought to be so presented that a particular event has happened and the happening of that event is sought to be indicated as being reasonably about the time of the publication then it would be said that there was publication of news. In our opinion 'news' would mean the presentation of a novel item of information which is reasonably intended to be accepted by the readers as such. Applying that test, it is obvious that the presentation in the document in question of the contents was in the form of presentation of novel items of information, and it appears further to have been intended that ordinary readers should regard it as a novel item of information. The publication is, therefore, one relating to news and it contains a mass of comment on that news. In our opinion, therefore, the pamphlet Ex. B was a 'news sheet' within the meaning of Section 2 (6), Press (Emergency Powers) Act 1931 and the making of that

news-sheet without being authorised by a Magistrate under Section 15 of the Act constitutes an offence under Section 18 (1) of the Act, and the accused was rightly convicted of the offence with which he was charged.

5. The learned Magistrate has sentenced the accused to three months rigorous imprisonment. The accused has suffered out of that period imprisonment for one month and ten days. The publication of the pamphlet was in the year 1946, and the charge-sheet was lodged in the year 1947. For reasons, which we are unable to ascertain from the record, the actual hearing of the Case did not commence till December 1948. The case against the accused was not of any particular importance nor were a large number of witnesses required to be examined, and we are unable to ascertain why the learned Magistrate should not have taken up the hearing of the case shortly after the charge sheet was lodged in Court. From the diary of the learned Magistrate it appears that the accused was required to be present on numerous occasions. We are unable to say whether adjournments were obtained at the instance of the accused, or the prosecution. Whatever may be the position, in view of the long delay in the disposal of the case, and the fact that the publication of the pamphlet in question was in the year 1946, we do not think that it is necessary to sent the accused back to jail after having been released on bail under the order that we passed on 5th September 1949. We therefore, confirm the conviction recorded against the accused, but reduce the sentence passed upon him to the period already under gone.

6. The rule is discharged, subject to the alteration in the sentence. Bail bonds cancelled.