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SooperKanoon Citation : sooperkanoon.com/339903

Court : Mumbai

Decided On : Feb-06-1962

Reported in : AIR1962Bom268; (1962)64BOMLR356; ILR1962Bom538

Judge : Patel and ;Chandrachud, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 292

Appeal No. : Criminal Revn. Appln. No. 1149 of 1961

Appellant : Ranjit D. Udeshi and ors.

Respondent : The State

Advocate for Def. : R.B. Kotwal, Govt. Pleader

Advocate for Pet/Ap. : Rajani Patel, ;R.B. Shah, ;B.A. Desai, ;C.B. Shah and ;H.C. Banavali, Advs.

Judgement :

Patel, J.

(1) The petitioner and three others, who are partners of a bookstall known as the 'Happy Book Stall' situated at Colaba Causeway, Bombay, have been convicted under Section 292 of the Indian Penal Code, in that they sold and were found in possession, for the purpose of sale, of copies of a highly controversial novel 'Lady

Chatterley's Lover' by D. H. Lawrence which was alleged to be obscene. They were charged under this section in respect of several passages occurring in that book marked 'Exhibits A-1 to A-22' in the original. The learned Additional Chief Presidency Magistrate found them guilty of the offence charged against them and sentenced them each to pay a fine of Rs. 20 and in default to suffer one week's simple imprisonment. The petitioner has filed this revision application challenging the order of conviction and sentence passed against him, by the learned Additional Chief Presidency Magistrate.

(2) It is contended for the petitioner that the learned Magistrate has not applied the correct law to the questions in issue and hence the order of conviction and sentence passed by him is vitiated and should be set aside.

(3) Section 292 of the Indian Penal Code as it originally stood in 1861, made it an offence to sell, distribute, import or print for sale or hire, or wilfully to exhibit any obscene book, pamphlet, paper etc. A representation in a temple or on a car used for conveying of an idol was, however, exempted from the operation of the section. In 1925, in implementation of the International Convention for Suppression of Traffic in obscene literature, the scope of the penal section was widened and the exception was also slightly enlarged. The exception now applies to any such matter connected with religion. We have, however, been referred to the report of the Select Committee, in support of the contention that the scope of the exception is widened and it would also apply to object of art and literature. (Gazette of India, Vol. V, dated 14th February 1925). The Select Committee says:

'We have considered at length the desirability of extending the scope of the Exception to new Section 292 of the Indian Penal Code, so as to cover religious, artistic and scientific writings, etc., but we have come to the conclusion that it would be difficult to do so without including writings etc., which are not bona fide of the nature stated. Further, there is a substantial body of case law, which makes it clear that bona fide religious artistic and scientific writings etc., are not obscene within the meaning of the Indian Penal code.'

It is thus clear, that the scope of the exception has not been widened as urged for the petitioner. The question in this case must, therefore, be decided by reference

to the section and the case-law.

(4) Section 292 does not define the word 'obscene'. This word has, however, been the subject-matter of much discussion in the past in England and the leading case on the point is *R. v. Hicklin*, (1868) 3 QB 360. It has been held in that case that the immunity must depend upon the circumstances of the publication. In the judgment at p. 371 the learned Judge laid down the test of obscenity to be.

'whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall.'

In answer to an argument that the motive of the author of the pamphlet was an honest one, in that it was to expose the errors of the Catholic religion in the matter of confession and cause a reformation of the same, the learned Judge admitting that the motive was an honest one observed:

'yet I cannot support but what they had that intention which constitutes the criminality of the act, at any rate, that they knew perfectly well that this work must have the tendency which, in point of law, makes it an obscene publication, namely the tendency to corrupt the minds and morals of those into whose hands it might come.'

This case has been followed in England and in India consistently, and the principle laid down therein would appear to hold good even today. For instance, in *R. v. Reiter*, (1954) 2 QB 16, which was a case of a trial by jury, in answer to a contention that the recorder had not told the jury about the 'standards of to-day', the learned Chief Justice expressed entire agreement with the recorder, that the law is the same now as it was in 1868 as laid down in *Hicklin's case*, (1868) 3 QB 360. In this country, the test laid down in *Hicklin's case*, (1868) 3 QB 360 was followed in the case of *Empress of India v. Indarman*, ILR 3 All 837 wherein it was held that a book may be obscene, within the meaning of Section 292 although it contained but a single obscene passage. It was further held that the motive for the publication was not relevant but the intention was to be presumed from the consequences of the act, namely, corruption of the minds and prejudice of the

morals of the public. Same view was latter on taken in the case of Queen-Empress v. Parashram Yeshwant, ILR 20 Bom 193: Emperor v. Vishnu Krishna 15 Bom LR 307 and Girdharilal Popatlal Shah v. The State, : AIR1956 Bom32 . It was also observed in the last case that in applying the test, one has also to consider the effect which the book would produce on an ordinary average person, and not on a person with depraved mentality, and that in considering whether a publication is obscene, the class of persons who are likely to read such a publication, must also be taken into consideration. It was further observed in that case that a publication cannot be said to be obscene merely because it deals frankly with sex matters, provided that the language used is not such as to excite sensual feelings or give rise to thoughts of just. Same thing can be expressed in different ways. Though one may recognize that knowledge of sex is essential, the presentation of the subject may be such that it gives rise to lascivious thought in the mind of an average person.

(5) For the petitioner, however, reliance is placed on Geoffrey Wladislas Vaile Potocki De Montalk, (1932) 23 App. Rep. 182, for the contention that it is a good defence to the charge that the publication of matter prima facie obscene was for the public good, as being necessary to advantageous to religion, science, literature or art, provided that the manner and extent of the publication does not exceed what the public good requires. The Court of Appeal has not in fact laid down that test. It is only to be found in the summing-up to the jury by the Recorder, wherein he has made that observation. In the judgment of the Appeal Court the text extracted from Hicklin's case, (1868) 3 QB 360 in R. V. Barraclough, (1906) 1 KB 210, was approved. We have carefully read that judgment and there is no justification for the contention that the Court of Appeal laid down the exception contended for. Our attention is also invited to the summing-up of Mr. Justice Stable in R. V. Martin Secker and Warburg Ltd., (1954) 2 All ER 683, wherein, it is said, some different test is laid down. Mr. Justice Stable at p. 684, however, expressly referred to the test in Hicklin's case, (1868) 3 QB 360, and only observed that it did not mean that the court had to consider whether, if the book convicted the publisher or not. The test, it seems to us on review of all these authorities, would be standards of morals and thoughts, the tendency of the book would be to deprave public morality; in other words, the question is, has it got the

tendency to corrupt or deprave the mind of an ordinary man into whose had the book is likely to fall by raising in him lascivious thoughts.

(6) It is true that Stable, J., in his summing-up to the jury in (1954) 2 All ER 683, said:

'Are we to take out literary standards as being the level of something that is suitable for the decently brought up young female, aged fourteen? Or do we go even further back than that and are we to be reduced to the sort of books that one reads as a child in the nursery? The answer to that is: Of course not. A mass of literature, great for reading by the adolescent, but that does not mean that a publisher is guilty of a criminal offence for making those works available to the general public I venture to suggest that you give a thought to what is the function of a novel. I am not talking about historical novels when people write a story of some past age. I am telling about the contemporary novelist. By 'the contemporary novelist', I mean the novelist who writes about his contemporaries, who holds up a mirror to the society of his own day. The function of the novel is not merely to entertain contemporaries; it stands as a record or a picture of the society when it was written. Those of us who enjoy the great Victorian novelists get such understanding as we have of that great age from chroniclers such as Thackeray, Dickens, Trollope, Surtees, and many others of that age.

In the world in which we live today, it is equally important that we should have an understanding of how life is lived and how the human mind is working in those parts of the world which are not separated from us in point of time, but are separated from us in point of space; and that we should have this understanding (particularly at a time like today when ideas and creeds and processes of thought seem, to some extent, to be in the melting pot and people are bewildered and puzzled to know in what direction humanity is heading and in what column we propose to march). If we are to understand how life is lived in the United States of America, France, Germany, or elsewhere, the contemporary novels of those nations may afford us some guide, and to those of us who have not the time, opportunity, money or, possibly, the inclination to travel, it may even be the only guide. This is an American novel written by a citizen of the United States of

America, published originally in New York, purporting to depict the lives of people living today in New York, and to portrays the speech, the turn of phrase, and the current attitude towards this particular aspect of life in New York. If we are going to read novels about how things go in New York, it would not be of much assistance, would it, if, contrary to the fact, we were led to suppose that in New York no unmarried woman or teenager has disabused her mind of the idea that babies are brought by storks or are sometimes found in cabbage patches or under gooseberry bushes? Your task is to decide whether you think that the tendency of the book is to deprave those, whose minds today are open to such immoral influences and into whose hands the book may fall in this year, or last year when it was published in this country, or next year or the year after that.'

Undoubtedly this would apparently seem to engraft an exception wide than ever recognized. This however does not mean that a writer can justifiably under a false cloak indulge in obscenity. It is undoubtedly true that a case is not to be judged by Victorian standards but by the moral standards, of to-day, since moral values and standards vary from age to age. It would seem that this is the only case where the test of 'taking the novel as a whole' and consideration of 'the dominant object of the book' are suggested. In *Paget Publications Ltd., v. Waston*, (1952) 1 All ER 1256, however, it was affirmed that a publication was an obscene publication even if only a part of it was obscene.

(7) In England in 1959 the Obscene Publications Act (Statutes 7 and 8 Eliz 2, Chapter 66) was passed. Section 1 prescribed the test for obscenity and by Section 4 a defence that the publication of the article was justified as being for the public good on the ground that it is in the interests of science, literature, art or learning or of other objects of general concern was made available to the offender. We must, however, be guided by the law as laid down in this country without reference to a recent statute law in England. Our attention is also called to the two cases decided by the Supreme Court of United States and they are *Samuel Roth v. United States of America* and *David S. Alberts v. State of California*, (1957) 354 US 476: 1 Law Ed 2nd 1498 which were heard together. There the test that was adopted was whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to

prurient interest. It was observed therein as follows:-

'The Hick in test, judging obscenity by the effect of isolated passages upon the most susceptible persons, might well encompass material legitimately treating with sex, and so it must be rejected as unconstitutionally restrictive of the freedoms of speech and press.'

With respect, it does not seem to have been said in Hicklin's case, (1868) 3 QB 360 that the test to be adopted was whether the most susceptible person would be affected in a particular manner. Moreover, the question there involved was one of invalidity of the statute, on the ground that it offended the guarantee of freedom of expression and it was on a consideration of the police powers of the State that the test stated by the learned Judges was formulated. Be that as it may, the view that has generally prevailed in this country is that even a single passage in a book may render the book obscene. (See ILR 3 All 837 and C. T. Prim v. State, : AIR1961 Cal177 .

(8) There also lurks a danger in this doctrine of the 'book as a whole'. The application of this doctrine would mean that if in a book some portion, say, a few pages are clearly obscene and the overshadowing the bad. The fact will, however, remain that despite the large portion of the book being innocuous, the obscene portion thereof would have the effect to deprave the mind of the reader. The result would be that 'the obscenity could then parade under the protective cloak of a quantity of innocuous pages.'

(9) It cannot be gainsaid that standards of morality vary from region to region and it is impossible to have one inflexible standard of obscenity for all country. Circumstances always differ and the Court has to take into account all the factors before it comes to the conclusion as to whether or not a publication is an obscene publication. Authorities clearly indicate that while judging the character of a publication, the Court must consider the effect that it would produce on the mind of an average person in whose hand the book is likely to fall. While so judging, neither a man of wide culture or superb character nor a person of depraved mentality only should be taken as a reader of such publication. The standard of readers is neither one of exceptional susceptibility nor one without any

susceptibility whatsoever. (See *Sukanta Halder v. The State*, : AIR1952 Cal214 .

(10) It is also evident from the cases (1868) 3 QB 360, *Steele v. Brannan*, (1872) 7 CP 261; *Kherode Chandra Roy v. Emperor*, ILR 39 Cal 377 and : AIR1952 Cal214 that the Court must also consider the effect on the mind of young and unwary persons or those of impressionable age. After all, it depends on the question as to who are likely to read the book. If the book is likely to be read by adolescents, there can be no reason to exclude the consideration of effect on their minds. We agree with the observations of the learned Judges in *C. T. Prim v. State*, : AIR1961 Cal177 where they state disagreeing with the observations of Stable J., in (1954) 2 All ER 683 that 'it is difficult to subscribe to the theory of eliminating altogether the effect of a publication on the minds of young persons, for they also constitute the public'- we should say a large part of the English reading public in this country.

(11) We may also observe that the impact of the Constitution does not make any essential difference to the meaning which has so far been given to the word 'obscenity' since the exception in clause (2) of Article 19 provides that nothing in sub-clause (a) of clause (1) of Article 19 affects the operation of any existing law, or prevents the State from making any law imposing reasonable restrictions 'on the exercise of the right conferred by the said sub-clause in the interests of the security of the State etc., decency or morality. . . .'

(12) The story as told is a simple one. As the name suggests, it is the story of a young healthy woman Constance, married to a baronet at a young age. During her school and college days she had a free student life, where she along with her sister did what she liked, went wherever she liked and spoke and talked whatever she liked. Clifford himself, the son of a baronet, belonged to a slightly higher strata. He was more of upper class than Constance, as he was aristocratic. Even before her marriage with Clifford, during her student days on the continent, Constance had sexual relations with those whom she liked. She married Clifford when he was on leave from his war service and they had a month's honeymoon. Clifford then went to resume his duties during the war and was sent back after six months badly mauled. He recovered but was completely paralytic below the waist.

Lady Chatterley, though she did her duties as wife in nursing him and had discussions with him on his writings, gradually felt herself frustrated and eventually rebelled. During this time, she had on sexual connection with one Michael who had visited her husband, in her own house. She then came in contact with Mellors, gamekeeper of Clifford, and had satisfactory relations with him and eventually became pregnant. In the book at several places the four lettered Anglo-sexton words are used, the passages being marked A-6, A-8 A-10, A-11, A-12, A-16, A-18, A-19 and A-20. One may not so much object to mere words but certainly to the manner of expression. Passages marked A-5, A-13, A-14, A-18 and A-21 contain immoral ideas and the rest give details of sexual performances of the pair - the gamekeeper and Constance. At several places what he considers perfect sexual intercourses have been described in great details which according to him can save man-kind. In many places the author has disapproved the sex relations when man and woman do not come off together. (See Exhibit A-5 p. 60, Exhibit A-13 p. 234 and Exhibit A-14 p. 236). He then emphasizes what he calls the warm hearted sex relationship as demonstrated by Exhibit A-15 p. 240-41. He has emphasised what he called both man and woman coming off together and described in details the sex-act in repeat performance on the same occasion and has given all glorified names to the man's organ and at Exhibit A-19 it is kinghted.

(13) We have been read the opinions of some of the critic of the novel in question and it is contended relying on their views, that the book is a book of great art and cannot fall within the mischief of S. 292 of the Penal Code. In particular, we are referred to the opinion of Archibald Macleish and the introduction of Mark Schorer given in the beginning of the novel edited by Grove Press Inc., New York Macleish says:

'And there is no dirt for dirt's sake in Lady Chatterley's Lover. The purpose of the book is manifestly pure; pure as being the high purpose of a serious artist; pure as being the cleansing purpose of a social reformer who hates lechery and sexual morbidity as he hates the devil himself. Lawrence's purpose here is the cleansing purpose of freeing humanity from the domination, which seemed to him evil, of the abstract intellect and sterile will by a return to the natural life of the body and the senses One may or may not agree with Lawrence's estimate of the

saving power of the senses and of natural sex in particular, or with his judgment of the destroying power of 'the life of the mind', but it is impossible to question honestly the purity of his motive.'

Though he further says that the characters are sometimes symbols rather than human beings and the propaganda purpose occasionally shows through, yet he admits that there is a cloudiness in the intention which must be set down as a defect. Then he says:

'Once is never left in doubt as to what Lawrence is against in the modern, industrialized world but it is less clear what he is advocating in its stand. But in spite of these reservations no responsible critic would deny the book a place as one of the most important works of fiction of the century. . . . '

Schorer also speaks in somewhat similar terms. Indeed these opinions do show that the work could not be regarded as dirt for dirt's sake. But as Macleish says, it is not clear as to what the author is advocating in substitution of that which he honestly dislikes. It is undoubtedly true that D. H. Lawrence is not merely a novelist but he is a thinker as well and that what he has written is not intended merely to convey or depict the ordinary social life in England as it is lived, but also to condemn the evils brought on by the industrialization of the times. There are several letters of the author on record from which it is clear that he himself calls it a 'Phallic' novel and it would not be erroneous to say that it would mean the cult of the 'Phallus'. He advocates a free life in rhythm with all the elements of nature. In the letters written by him 'Letters of D. H. Lawrence' at p. 710 he says.

'I believe in the phalli consciousness, as against the irritable cerebral consciousness we are affected with: anybody calls my novel a dirty sexual novel, is a liar. It is not even a sexual novel: it's phallic.'

At p. 712, in another letter of 15th March 1928 he says, 'I have to publish it here, as it's too phallic for the gross public.' The question of all questions is, what would be the effect that the book would produce on the mind of an ordinary man who knows ordinary English in this country? So far as we can say though in this country there are several books both costly and cheap showing how sex life may

be regulated by the young generally one rarely comes across any novel in Marathi, Gujarati or Hindi where the simple equivalents of the four letter words are used in the manner used in this book or the sex act is described as has been described in this book. Though we may not judge the book as if it were intended for boys and girls of ten since they are not likely to read it, we cannot suppose that the book will be housed in a College or University library and one desiring to read the book will be initiated into the method of approach to the book with reference to the artistry of its, or that it would be read by only Professors and students of literature.

(14) After fully and lustfully developing the escapade between Constance (Lady Chatterley) and Mellors after she becomes pregnant, a meeting is arranged between her father and Mellors in which the father unblushingly and in very suggestive language approves what Mellors had done as shown by the following conversation:

'Honour, by God?' Sir Malcolm gave a little acquiring laugh, and became Scotch and lewd. 'Honour! How was the going, eh!, Good, my boy, what?'

'Good!'

'I'll bet it was! Ha-ha! My daughter chip of the old block, what! I never went back on a good bit of fucking, myself. Though her mother, oh, holy saints!' he rolled his eyes to heaven. 'But you warmed her up, oh, you warmed her up, I can see that. Ha-ha! My blood in her! You set fire to her haystack all right. Ha-ha-ha!' I was jolly glad of it, I can tell you. She needed it. Oh. She's a nice girl, she's a nice girl., and I knew she'd be good going, if only some demeaned man would set her stack on fire! Ha-ha-ha! A game-keeper, eh, my boy! Bloody good poacher, if you ask me. Ha-ha! But now, look here, speaking seriously, what are we going to do about it? Speaking seriously, you know!'

In the letter written by Mellors, along with the homily on the way to solve the industrial problems he has indulged in describing the peace of sex satisfaction. (See Exhibit A-22 at p.,. 333 of the book).

(15) On a perusal of all this material in the book, a man of ordinary understanding and knowing ordinary English according to the present day standards in this country, would be inclined to finding a man like Mellors, to satisfy her sex craving and an employee or a guest justifiably indulging in sex relation under the roof of the husband. If this is so, it is clearly repugnant to public morals.

(16) Granted as Schorer says that the characters function fully and the author allows them to speak for themselves. Yet, in the mind of an ordinary man it would have the effect of raising immoral thought. It is indeed very difficult to see much symbolism so far as Clifford is concerned, of which so much is said. It is not a sexual paralysis born of his high breed or his richness or the industrialization but paralysis due to injuries in the war. In him there is a clear physical incapacity. The author himself in his Essay 'Apropos of Lady Chatterley's Lover' edited by Harry T. Moore, on the question as to whether the symbolism was intentional says:

'And when I read the first version, I recognised that the lameness of Clifford was symbolic of the paralysis, the deeper emotional or passion paralysis, of most men of his sort and class to-day. I realised that it was perhaps taking an unfair advantage of Connie, to paralyse him technically. It made it so 'much more vulgar of her to leave him'. Yet the story came as it did, by itself, so I left it alone.'

No doubt, in the same essay the author asserts:

'Far be it from me to suggest that all women should go running after gamekeepers for lovers. Far be it from me to suggest that they should be running after anybody. A great many men and women today are happiest when they sustain and stay sexually apart, quite clean; and at the same time, when they understand and realise sex more fully.'

On an ordinary man not initiated into the literary art, the effect would yet be quite the reverse. It would seem that an ordinary man who reads the book would feel that an ordinary man who reads the book would feel that the author is of the view that tenderness comes only after the fullest sensual satisfaction and not otherwise. He will also imagine that if Mellors after marriage sustained some accident and got paralytic as did Clifford, Constance might again leave him as well and would be

justified in doing so since the tenderness born of an nourished by phallic love must end by his phallic paralysis. It is here that the danger lies. Besides, most of the passages which form the subject-matter of the charge would have the effect of raising lascivious thoughts in the mind of an ordinary reader of the book and would rudely shake his moral fabric so as to deprave and corrupt him. If this is the effect that can reasonably be said to be caused on the mind of those into whose hands the book is likely to fall, then clearly the book is obscene, within the meaning of S. 292 of the Penal Code.

(17) The book is priced at 35 cents and is likely to be purchased by those who know English amongst whom may be college students of various ages, whose minds may well be presumed to be open to immoral influences, those who know English but not the literature, those who are of ordinary culture and have not attained high mental altitudes, and it is difficult to deny that the effect not only of the passages which form the subject-matter of the charge, but of the book as a whole on the minds of these persons would but be what we have indicated above.

(18) We have come to this conclusion despite our being aware of the fact that the American and English Courts have taken a different view. The case came before the Court of Criminal Appeals in United States because of the action taken by the Postmaster General under powers vested in him under 18 U. S. Cooped 1461. The majority took the view:

'It seems clear without dissent from the expert 'evaluations presented both in the record and in the introductory material to this edition, as well as in the contemporary literature, that this is a major and a distinguished novel, and Lawrence one of the great writers of the era.'

They said that the story is a small part of the work.

'Actually the book is a polemic against three things which Lawrence hated: the crass industrialization of the English Midlands, the British caste system, and inhibited sex relations between man and woman.' Injunction granted by the District Court against the Postmaster was confirmed. One of the Judges, Moore J., however, concurred in the opinion of the majority with some reluctance. We, on

our part, agree with Moore J. When he says

'that the first two messages (as analysed by the majority), if they be directed against the 'crass industrialization of the English Midlands' and 'the British caste system' could be delivered effectively without the objectionable material'.

On the question, however, as to whether prurient interest is aroused, the learned Judge observed;

'As to 'prurient interest' one can scarcely be so naive as to believe that the avalanche of sales came about as a result of a sudden desire on the part of the American public to become acquainted with the problems of a professional gamekeeper in the management of an English estate.'

The learned Judge further observed:

'During recent years authors of the so-called school of 'realism' have vied with each other to depict with accuracy all that could be observed by peeping through hypothetical keyholes and by handing under beds. The last war offered an excellent opportunity to employ the entire register of Anglo-Saxon four letter words via the medium of realistic soldier conversations. Many such books became best sellers. After this phase of literary effort palled, it became necessary to go beyond this stage into the sordid and more perverted sexual field -all under the guise of telling an allegedly powerful and moving story about various characters or families which had better remained unborn. One normal adultery per book was quite insufficient to create a best seller. And an eager public, possibly bored by the monotony of monogamy, seized upon each literary contribution to enjoy vicariously and quite safely- bold but rather impractical daydreams of a life which could be found in fictional actuality in these books. Each book contributed a few additional degrees to the temperature and by its unchallenged existence created the 'contemporary community standards' which, in turn, are to justify its acceptance as consistent with such standards. Into this climate ever increasing in warmth came 'Lady Chatterley's Lover' which plaintiffs sought to distribute through the mails.. .'

(19) In our opinion and to the best of our knowledge, no attempts have so far been made in the Indian literature, to produce any such 'climate ever increasing in warmth' nor have such 'contemporary community standards' been created in this country as have been so admirably described by the learned Judge in the foregoing passage. In England, the case was decided by a jury and there the matter ended. The proceedings before the English Court were referred to us but the evidence in that case is not evidence in this case and consequently we can look only to the verdict. It may be that in England and America literary capabilities of an average man are far higher or that he reads novels for the beauty of the literature. That, however, cannot be the standard everywhere. It is possible by comparing the figures of sale in England and America of other better works of Lawrence in fiction and this novel to find out whether the public in those countries reads the novel for the beauty of its literary art or the luscious performances of Mellors and Constance.

(20) Even if the book has to be considered as a whole, one must consider the good that it is intended to achieve. Taking an overall view of the case and even considering the book as a whole, we feel, as was felt by Moore J., that the book should be held to be obscene within the meaning of S. 292 of the Penal Code.

(21) We accordingly hold that the petitioners have been rightly convicted and sentenced. Rule will therefore be discharged.

(22) Rule discharged.