

**Emperor Vs. Timman and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/447739](http://sooperkanoon.com/447739)

**Court :** Allahabad

**Decided On :** Sep-09-1929

**Reported in :** AIR1930All19

**Appellant :** Emperor

**Respondent :** Timman and ors.

**Judgement :**

1. In this case Timman, Azmat and Summan were charged before Mr. Thomas, Magistrate of the First Class, Meerut, under Section 60(a), Excise Act, for being in possession of cocaine. It appears that the police, having obtained a warrant for the search of a gaming house, carried out the search and these three accused were there discovered, and on being searched packets of cocaine were found upon them. It has not been disputed by the accused that the cocaine was found upon them, and indeed it would have been impossible for them to dispute this fact. The learned Magistrate sentenced each of them to a fine of Rs. 75. The Local Government filed an application in revision asking for the enhancement of the sentence.

2. It is pressed on behalf of the opposite party that this is a case of first offence with regard to all three. We are of opinion that the section of the Criminal Procedure Code dealing with first offenders should not be applied to the case of people discovered with cocaine and other dangerous drugs upon them in defiance of the Excise Act, it being almost certain that in all these cases the occasion on

which they have been discovered in possession of cocaine is not really the first time they have been in such possession.

3. We are satisfied that the sentence is totally inadequate, and we enhance it to one of six months' rigorous imprisonment each. The fine already imposed is to stand.

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