

Dina Nath Vs. Emperor

Dina Nath Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/448192

Court : Allahabad

Decided On : Aug-09-1945

Reported in : AIR1946All53

Appellant : Dina Nath

Respondent : Emperor

Judgement :

Allsop, J.

1. This is an application in revision by one Dina Nath who has been sentenced to a fine of Rs. 500 for contravening the rules of the U.P. Cotton Cloth and Yarn Control Order, 1943. He had a licence as a hawker and, as such, was entitled to be in possession of a hundred pounds of cotton yarn which is equivalent to ten bales. In fact, he was found to be in possession of one thousand four hundred pounds or one hundred and forty bales. The order says that no person shall act as a dealer or retailer or hawker without a licence. This man had a licence as a hawker, but a hawker is defined as a person who does not deal with more than one hundred pounds of yam. He was dealing in a much larger quantity and therefore he was acting as a retailer or dealer and he had no licence to act as such. There cannot be the slightest doubt that he was punishable under Rule 13 of the Order.

2. The other point is raised in connexion with the fact that the cotton yarn in possession of this man in excess of ten bales was confiscated. It has been urged that the confiscation was not justified because Rule 13 allows the Court to confiscate only cotton piece goods and it is alleged that 'yarn' does not come within the meaning of the term 'piece goods'. We have examined the Oxford English Dictionary and we find that the term 'piece goods' is a technical term used by merchants trading with the east and has no very definite meaning. It is used apparently in a general way for cloth, but we do not know whether merchants would include yarn within the meaning of the term. The use that the Legislature obviously intended can be discovered from the previous legislation on the subject. On 26th May 1943, the U.P. Government issued, what they called, a Cotton Piece Goods Control Order. In that Order the term 'piece goods' was defined as including yarn. On 17th June the Government of India issued a Cotton Cloth and Yarn Control Order. After that the U.P. Government repealed its previous Order and issued in its place the Order with which we are concerned and which is termed the United Provinces Cotton Cloth and Yarn Control Order. That order deals both with cotton cloth and cotton yarn. There is no definition of the word 'piece goods' in it, but it has to be noticed that Rule 13 of the Order reproduces word for word Rule 9 of the previous Order. Under the previous Order according to definition, the term 'piece goods' included yarn, and there is no reason to suppose, when that particular rule was re-produced word by word, that the word 'piece goods' was used in any different sense. If the Government had intended to exclude yarn from the scope of possible confiscation, there is no reason why they should not have replaced the word 'piece goods' by the word 'cloth'. We have no doubt that they used the word 'piece goods' in Rule 13 of the present Order in the same sense as that in which they had used it in Rule 9 of the previous Order and that the term 'piece goods' was intended to include yarn. There was no reason that we can see why yarn should be excluded from the scope of possible confiscation and nobody has been able to suggest any reason. We, therefore, consider that the yarn was rightly confiscated and we see no reason to interfere. This application is rejected.