

Niaz Mohd. Khan Vs. the State

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Court : Allahabad

Decided On : Apr-19-1957

Reported in : AIR1958All29; 1958CriLJ7

Judge : Randhir Singh, J.

Acts : Press (Objectionable Matter) Act, 1951 - Sections 3

Appeal No. : Criminal Appeal No. 116 of 1956

Appellant : Niaz Mohd. Khan

Respondent : The State

Advocate for Def. : M.L. Trivedi, Adv.

Advocate for Pet/Ap. : Kalbe Mustafa, Adv.

Disposition : Appeal allowed

Judgement :

Randhir Singh, J.

1. This is an appeal under Section 23 of the Press (Objectionable Matters) Act 1951 against an order of the Sessions Judge, Lucknow, demanding a security of RS. 500/- from the appellant under Sections 4 & 7 of the Press (Objectionable Matter) Act. It appears that a newspaper styled as 'Millat Jadid' was printed at a

press of which the appellant was the keeper. In the issue of the newspaper Millat Jadid dated the 13th August, 1954, certain matter with the heading 'Pant Sarkar ki Rajdhani Janaza Nikal Gaya' was published.

The District Magistrate then filed a complaint to the Sessions Judge asking for the demand of security from the appellant along with two others who were connected with the press and the publication of the newspaper on the ground that the matter mentioned above was 'Objectionable matter' within the meaning of Section 3 of the Press (Objectionable Matter) Act. The learned Sessions Judge found that the articles which were alleged by the complainant to be objectionable matter did amount to an 'objectionable matter' and asked the appellant and others to furnish security.

Two out of the three persons have not appealed but an appeal has been instituted on behalf of Sri Niaz Mohd. Khan alias Niaz Patehpuri on the ground that the article which has been held to be 'objectionable matter' was not in fact an 'objectionable matter' and as such the order passed by the Sessions Judge could not be maintained. There are several small items which carry the bold head-line beginning 'Pant Sarkar ki Rajdhani Janaza Nikal Gaya' and it is difficult to indicate which particular item was made the basis of the complaint by the District Magistrate.

The first item under the broad heading only criticises the administrative act of the police in taking possession of certain hand-bills and printing plates as also the stoppage of work of the press. I have not been able to find out any particular sentence which indicates that the intention of the writer of article was to incite any person or persons to resort to violence or to promote feelings of enmity or hatred between the different sections of the people of India. Explanation I appended to Section 3 of the Press (Objectionable Matter) Act, hereafter to be referred to as the Act, makes 't clear that criticism of any policy or administrative action of the Government, if done with a view to obtain an alteration of the policy or a redress by lawful means, does not amount to an 'objectionable matter' within the meaning of Section 3.

The main purpose, it appears, of the writer was to disapprove the conduct of the Government and of the police authorities in acting in an alleged high-handed manner in seizing the hand-bills and the printing plates. There is nothing in the words to suggest an incitement or encouragement to violence or promotion of feelings of enmity. The article does not therefore, appears to be an 'objection able matter' within the meaning of the words 'objectionable matter' defined in Section 3 of the Act.

2. There is, however, one other article under the same broad heading to which exception may perhaps be taken to some extent but it appears that this was not made the basis of the complaint nor was it, put to the appellant. If a person is charged of having published 'objection able matter' it is the duty of the complainant or the prosecution agency to indicate clearly the matter alleged to be 'objectionable matter' so that he may be able to explain the matter or show the circumstances under which it was written as also the possible effects of it. This not having been done it would not be proper to take note of any other article in the paper which has not been made the basis of the charge.

3. I am, therefore, of opinion that the matter about which the complaint had been filed by the District Magistrate could not be said to be 'objectionable matter' and as such the order passed by the Sessions Judge against the appellant cannot be maintained.

4. As a result the appeal is allowed and the order demanding security from the appellant is set aside.

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