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Raghubir Singh Vs. Emperor

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Court : Allahabad

Decided On : Sep-12-1945

Reported in : AIR1946All88

Appellant : Raghubir Singh

Respondent : Emperor

Judgement :

Allsop, J.

1. This is an application for the revision of an order passed on appeal by the Additional Sessions Judge of Saharanpur. The applicant was sentenced by a Magistrate to a fine of Rs. 150 for being in possession of small coins to the value of Rs. 16-8-9 in contravention of an order of the District Magistrate that no private person in Saharanpur should keep in his possession small coins to a value of more than Rs. 5 and no businessman should keep in his possession such coins to the value of more than Rs. 10. The applicant is alleged to have been a vendor of articles on a running train. When the train arrived in Saharanpur ho left the station to bathe in a river and while he was there he was searched and found to be in possession of the coins to which we have referred. The main question to be considered is whether the District Magistrate was entitled to make the order which the applicant undoubtedly contravened. The District Magistrate presumably acted under the provisions of Rule 81(2)(a), Defence of India Rules. It is admitted that

the District Magistrate had power to pass orders under this rule. The rule gives a power to make an order providing for the keeping of articles or things of any description whatsoever. The power is very wide and the District Magistrate was apparently under the impression that he could treat coins as articles and make an order regulating the keeping of them. There is, however, a special provision for coins in Rule 90, Defence of India Rules and we are of the opinion that the special provision must override the general provision in Rule 81. In one sense a coin may be treated as an article or a commodity but we think, in view of the special provisions in Rule 90, that coins were not intended to be included within the meaning of articles or things referred to in Rule 81. We think the framers of the rules had in their minds a distinction between commodities and money, as such. We hold that the order passed by the District Magistrate was beyond his, powers and that applicant was, therefore, not guilty of the offence with which he was charged. We consequently set aside his conviction and acquit him. We also set aside the sentence of fine passed by the learned Additional Sessions Judge and direct that the fine or any part of it which may have been paid shall be refunded to the applicant.

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