

Emperor Vs. Masit

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SooperKanoon Citation : sooperkanoon.com/449150

Court : Allahabad

Decided On : Aug-03-1911

Reported in : (1912)ILR34All78

Judge : George Knox and ;Piggott, JJ.

Appellant : Emperor

Respondent : Masit

Judgement :

George Knox and Piggott, JJ.

1. Masit has been convicted of an offence under Section 296 of the Indian Penal Code, and has been sentenced to rigorous imprisonment for six months. He appealed to the Sessions Judge of Bareilly, and his appeal was dismissed. He comes here in revision and raises the point whether the facts found constitute an offence under Section 296 of the Indian Penal Code; the question of sentence is also put forward as being excessive.

2. The facts found are that Masit joined with others in attacking a procession of Lodhas who were carrying flags to a temple with the sanction of the public authorities.

3. The learned Counsel who appeared for him in this Court raised the question whether the carrying of flags to a temple before they had been, so to speak, consecrated, could be considered the performance of a religious worship or religious ceremony.

4. He argued that this Section of the Indian Penal Code may fairly be supposed to have been framed upon the kindred English law to be found in 52 Geo. III, Chapter 155, Section 12, also 23 and 24 Viatoria, Chapter 39. The case of Vijiaraghava Chariar v. Emperor (1902) I.L.R. 26 Mad. 554 and the case to be found in 3 Indian Cases, 981, were also cited and have been fully considered by us.

5. We have no reason to suppose that the English law is any guide. the words of Section 296 are quite clear. As regards the Madras case we agree with what was said by Mr. Justice BENSON.

6. We are satisfied that the carrying of these flags to the temple was considered by the Lodhas as the performance of a religious ceremony. They had applied to the public authorities and had got permission to carry the flags through the public streets. The assembly which was engaged in the carrying of these flags was an assembly lawfully engaged in the performance of a religious ceremony.

7. This being so, we see no reason for interfering, the sentence does not appear to us on the findings, to be excessive. 'We dismiss the application.