

Dina Nath Vs. Emperor

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Court : Allahabad

Decided On : Jul-18-1945

Reported in : AIR1946All117

Appellant : Dina Nath

Respondent : Emperor

Judgement :

ORDER

Sinha, J.

1. This is an application in revision against an order of the learned Sessions Judge of Muttra by which he maintained the conviction and sentence of six weeks' simple imprisonment and a fine of Rs. 50 and, in the alternative, simple imprisonment for another period of six weeks passed on the applicant by the learned Magistrate. He was charged with an offence under Rule 81(4), Defence of India Rules, read with Clause (6) and (22), U.P. Government Foodgrains Distribution Order, 1943. It appears that the applicant had applied to the civil authorities for an identity card and was availing himself of its benefits. He was, thereafter, employed in the Central Ordnance Depot and secured ration from the military authorities also.

2. The facts are not in dispute before me. The question of sentence has, however, been pressed. The Courts below proceeded upon Clause (6) of the Rules as it stood before the amendment. I have no doubt in my mind that the clause as it

stood prior to the amendment cannot hurt the applicant. All that the clause forbids is the application

for an identity card when provision has been made for the supply to him of Government food-grains in any other identity card or in any other way.

His subsequent employment in the Central Ordnance Depot will not, therefore, bring him within its mischief. But the clause has been subsequently amended and what has-been forbidden is not merely the application for the card, but its use when provision has been made for the man '...in any other way.'

3. I would not have reduced the sentence because a sentence of six weeks is by no means an unduly severe sentence for a case of this character. But I have been impressed by the argument that, although it is true that *ignorantia legis neminem exousat* is a well known principle, nevertheless there are cases in which the rigour of that maxim may be mitigated. There can be no doubt that Rules and Orders have of late - of course, for very good reasons, because nothing can be more important than the safety of the realm - been enacted in quick succession and it is not surprising if the applicant was unaware of this amendment. Let alone the applicant who is by no means a highly educated, if not an illiterate, man, even the Courts below were unaware of this amendment. It might, therefore, well be that the breach of the Rule was committed in sheer ignorance. I, therefore, think that the merits of the case do demand a reduction of the sentence. The man has already, I am informed, served out for about a week and I, therefore, reduce the sentence to the period already undergone.

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