

Queen-empress Vs. Narain Singh

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1900)ILR22All340

Judge : Knox, Actg. C.J. and ;Blair, J.

Appellant : Queen-empress

Respondent : Narain Singh

Judgement :

Knox, Actg. C.J. and Blair, J.

1. Narain Singh, a constable, was convicted by the District Magistrate of Jhansi of an offence under Section 29 of Act V of 1861, and sentenced to two months' rigorous imprisonment. Narain Singh was a recruit, and, as such, under the orders of the Reserve Inspector. There is evidence on the record that all policemen at every parade from the 11th were informed by orders of the Reserve Inspector that no recruit was to be absent from the lines without a pass. Upon the evidence the District Magistrate rightly found, if he believed the evidence, which he did, that Narain Singh was absent from the roll-calls at which he was bound to be present at 7 P.M. and 9-30 P.M. on the 22nd February. The defence of the accused was that he was unable to be present at the first of the two roll-calls because he had been in the Court Inspector's office till 6-30 P.M. of that evening, and when he went home to get his food, was delayed because the food was not ready. As

regards the second roll-call, he says he was asleep. He does not anywhere set up the defence that he was ignorant of the rule about the roll-call. The defence, moreover, is disbelieved, and we shall certainly not disturb the Magistrate's finding on these matters of fact. The finding proceeds upon evidence, with which he was more competent to deal, in that it was given in his presence, and he had better opportunities of appraising its worth. There is also much force in what the District Magistrate says, that he tried the offence summarily, and all that a Magistrate trying the case summarily is required by law to enter is the finding, and in case of a conviction, a brief statement of the reasons therefor. We do not expect to find the evidence in full, nor can we lay down, for that would be legislation, that in a case of this kind the Magistrate is bound to do more than record a judgment embodying the substance of the evidence.

2. But it is contended that the Magistrate had no jurisdiction to try this case, and the contention is based upon the words contained in Section 556 of the Code of Criminal Procedure. The argument is that the accused should not have been tried by the District Magistrate in one capacity for breach of an order issued by, or approved of by himself in another capacity as accused's superior officer. We have in this Court in Full Bench decided what meaning is to be put on the words 'a party or personally interested,' and that judgment is in no way affected by the explanation which has been added by Act No. V of 1898, certainly so far as the circumstances of this case are concerned. The accused could have at a proper stage raised this point; he did not do so, nor do we think he could have done so successfully, for we see in the case no substantial interest giving rise to real bias in the mind of the District Magistrate. We do not agree with the learned Judge that the fact that the District Magistrate was much concerned on account of riots between the police and the Madras Infantry Regiment, and that he was taking energetic steps to prevent disturbance of the public peace, is any evidence of any bias on the part of the District Magistrate. Any such conclusion as this we most emphatically decline to draw. A Magistrate may be very properly interested in securing the proper peace of his district, and be at the same time rigidly impartial in trying persons charged with a breach of that peace. The Code of Criminal Procedure recognises this when it gives the District Magistrate special powers of dealing in appeal with proceedings taken to insure security against any breach of

the peace. The order therefore which we are now passing is in no way concerned with any such reasoning as that given above. We take into consideration that the accused was a recruit, that nothing was shown against his previous character. Three months is the maximum punishment provided by law, and we think that, on the whole, a sentence of one month's rigorous imprisonment would have sufficed. We accordingly reduce the sentence to one of rigorous imprisonment for one month with effect from the 28th February 1900. Any imprisonment which the accused has suffered since that date will be deemed part of this sentence. Any balance of imprisonment not suffered will run from the date on which he is arrested or submits himself for arrest.

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