

**Behari Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/450056](http://sooperkanoon.com/450056)

**Court :** Allahabad

**Decided On :** Aug-09-1945

**Reported in :** AIR1946All138

**Appellant :** Behari

**Respondent :** Emperor

**Judgement :**

**Allsop, J.**

1. This is an application in revision The applicant was sentenced to rigorous imprisonment for a period of six months and a fine of Rs. 100 for a breach of Rule 90(2)(a) of the rules made under the Defence of India Act. This rule says, 'No person shall buy or sell, or offer to buy or sell, for an amount other than its face value, any coin or note.' The punishment for the contravention of this rule is contained in Sub-rule (8) of Rule 90 and amounts to imprisonment for a term which may extend for five years or fine or both. The applicant was convicted by a Magistrate and the conviction and sentence was upheld by the learned Sessions Judge. The facts of the case are that a man who had a small stall had sold goods for a few annas and had been given a rupee for which the purchaser required change. The stall-holder went to the applicant's shop and asked him to change the rupee. The applicant gave him only thirteen annas instead of sixteen annas. The incident was observed by a member of the Civic Guard who intervened with the

result that the applicant was prosecuted. The argument before us is that the transaction did not amount to a sale within the meaning of the relevant rule and consequently there was no breach of the rule. Learned Counsel has urged that there can be no buying or selling of current coin. He has referred us to the definition in the Sale of Goods Act. We are entirely in agreement with him that the transfer of current coin for other current coins of different denominations is not a sale within the meaning of the Sale of Goods Act but it does not necessarily follow that the transaction with which we are dealing was not a sale within the meaning of the relevant rule made under the Defence of India Act.

2. Learned Counsel's argument really amounts to this that the Legislature or statutory authority enacted an entirely meaning, less rule. Our business as Judges is to interpret the acts of the Legislature and to assign some meaning to them. We are not to suppose that the Legislature meant nothing at all when it enacted this rule. It is obvious from the reference to 'face value' that the Legislature meant to deal with the buying or selling of current coin and that also follows from the definition of the term 'coin' in Sub-section (1) to Sub-rule (1) of Rule 90. It follows that the Legislature did intend to assign some meaning to the buying or selling of current coins and it is quite useless to say that there can be no such thing as the sale of current coins. In the ordinary sense of the word to sell means to transfer a commodity in exchange for money. There is no prohibition against treating a particular coin or coins as a commodity. There is only one possible meaning to give to the rule and that is the Legislature intended to prohibit the transfer of current coin for other current coin of an aggregate value which is less than the value on the face of it of the coin transferred. We do not think that any person in ordinary life would have any difficulty in understanding what was intended if a man went, say with a five rupee note to him and asked him to buy the note for rupees or rupees and small change. He would quite clearly understand that the note was to be transferred in exchange for coins. We are satisfied that there is no force in the argument which has been addressed to us. On the other hand, we think that the sentence, though doubtless justified at the time when it was passed, would now be rather unnecessarily severe. We can take judicial cognizance of the fact that the situation in respect of small change has greatly improved. The applicant has already been in prison for a period of about one month. We think it is

unnecessary to send him back again. We, therefore, reduce the substantive sentence of imprisonment to imprisonment for the term which the applicant has already served. We maintain the sentence of fine and the sentence in default of the payment of fine. The applicant need not surrender to his bail if he has paid the fine; otherwise he must surrender and serve out the sentence in default of payment of the fine.

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