

In Re: Narain Prasad Nigam

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Court : Allahabad

Decided On : Jul-27-1922

Reported in : (1923)ILR45All128

Judge : Stuart, J.

Appellant : In Re: Narain Prasad Nigam

Judgement :

Stuart, J.

1. This application in revision is of an unusual kind. Fifty-five persons were convicted, on the 19th of December, 1921, under Section 17(2) of the Criminal Law Amendment Act (No. XIV of 1908) and sentenced to various terms of imprisonment and fine. The imprisonment was, in some cases, rigorous and, in some cases, simple. These persons could have appealed. They did not appeal. The period of appeal has long since expired. On the 26th of July 1922, something more than seven months after their convictions, this application has been put in in revision, not by these persons, but by a practising pleader of Cawnpore called Babu Narain Prasad Nigam, on their behalf, suggesting that the convictions be set aside. The learned Counsel, who appears for Babu Narain Prasad in support of this application, has stated very frankly that the fifty-five persons in question, who were convicted, have not themselves applied to this Court and that they, in no way, approach the Court on the subject of the legality of the convictions passed

against them, or the legality of the sentences passed upon them, or the severity of those sentences. These fifty-five persons apparently have deliberately refrained from taking any action in this matter, either by way of appeal or revision, but Babu Narain Prasad Nigam has applied on their behalf (I am given to understand, without their consent) in what he considers to be the public interest.

2. I give, in the first place, my considered opinion that a court should be loath to interfere on behalf of a person convicted in a criminal case, if that person is an adult and of ordinary intelligence, when that person himself, in no way, contests the propriety of his conviction. The learned Counsel, who has argued this application, informs me that all these fifty-five persons are adults, that they are all of full mental capacity, and that the majority (if not all of them) are men of education above the average. They have refused to move the Court, find, from the decision with which I am asked to interfere, it appears that they refuse to recognize the existence of any court established by the British authority in India. I presume they include the High Courts among other tribunals. I am, therefore, asked in this revision to look into the matter on behalf of persons, who not only have not requested me to look into the matter on their behalf but who, as far as I can see, refuse to recognize my authority or my existence. This appears to me a somewhat amazing situation. However, it has been urged upon me that in the interests of justice I should at least read the judgment which it is proposed to set aside. Of course it is perfectly clear that under the very extensive powers contained in Section 435 I can call for and examine the record of proceedings, if the necessity for doing so has been brought to my notice in any manner. Mr. Nigam has as good a right to bring the matter to my notice as anybody else in India, and, if I so desire, I can undoubtedly send for the record. But before I do so, it would be necessary for me to be satisfied that there are a priori grounds for apprehending a miscarriage of justice. My position is simply this. Mr. Nigam has brought the matter to my notice and filed a copy of the judgment. The matter might equally well have been brought to my notice by a paragraph in a newspaper or a placard on a wall or an anonymous post-card. It would be open to me, on information contained in a newspaper, a placard on a wall or an anonymous post-card, to take action if I considered that sufficient grounds were established to justify my so doing, go the case here stands. The judgment has been brought

before me and read to me. I have heard the learned Counsel's arguments. One of the arguments, which I have heard, contains the assumption that there can be no evidence upon the record except that to which the Magistrate refers in his judgment. That assumption is, of course, unjustified. The remaining points taken are points of a technical nature. They might have been interesting points to argue if the persons in question had appealed, as they had a right to appeal, but they are not points to which I should be disposed to attach the slightest importance in an application for revision made by the convicted person himself, and I certainly do not attach the slightest importance to them when suggested, as they are suggested, not by the persons convicted but by a gentleman who has not satisfied me, in any way, as to his responsibility, and who admittedly has no authority on behalf of the persons convicted. There is nothing to show me that there has been any miscarriage of justice. In these circumstances, I have no hesitation in rejecting this application, which I reject accordingly.

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