

**ShamsuddIn Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/451449](http://sooperkanoon.com/451449)

**Court :** Allahabad

**Decided On :** Jul-14-1947

**Reported in :** AIR1948All100

**Appellant :** Shamsuddin

**Respondent :** Emperor

**Judgement :**

ORDER

**Malik, J.**

1. The facts of this case are that a ferry contractor had made an illegal demand of Rs. 9 from one Ahmad Khan to allow his bamboos to pass under the boat bridge constructed by the contractor. He was prosecuted under Section 22, Northern India Ferries Act, and has been convicted and sentenced to pay a fine of Rs. 50. The learned Sessions Judge has made this reference on the ground that the accused had, in his view, committed no offence under Section 22 of the Act. Section 22 provides that every such lessee or other person as aforesaid and any person in possession of a private ferry asking more than the lawful toll or without due cause delaying any person, animal, vehicle or other thing shall be punished. The learned Sessions Judge has said in his order that no toll is charged for allowing things to pass under the boat bridge and, therefore, it cannot be said that there was any amount charged in excess of the amount of the lawful toll. I regret, I

am not able to accept this view. It has been found that the amount was charged as toll. It is further not disputed that there was no such toll leviable from Ahmad Khan. According to the learned Sessions Judge, if there had been some amount chargeable, however small, any claim in excess would amount to an offence; but if there is no toll, then any amount charged as toll does not come under this section. This, to my mind, is not correct. No toll being chargeable, any sum charged as toll must be deemed to be a charge in excess and, therefore, punishable under the section. I reject this reference.

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