

**Parmanand Vs. Emperor**

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**Court :** Allahabad

**Decided On :** Mar-01-1940

**Reported in :** AIR1941All156

**Appellant :** Parmanand

**Respondent :** Emperor

**Judgement :**

**Allsop, J.**

1. This is an appeal by one Pandit Parmanand, who has been sentenced to rigorous imprisonment for a period of eighteen months under Section 12-1A, Penal Code, for bringing or attempting to bring into hatred or contempt or exciting or attempting to excite disaffection towards the government established by law in British India. The appellant is alleged to have made a speech in Benares which was reported by a Sub-Inspector of Police. Learned Counsel argues that the speech as reported does not substantially represent what the appellant said, but I cannot accept this argument. In the first place, it was the duty of the Sub-Inspector to write down what the speaker was saying at the meeting and the natural assumption is that he would have written down what he heard rather than invent some passages which had never been spoken. There is no suggestion that the Sub-Inspector had any particular grudge against Pandit Parmanand or any desire to get him into trouble by representing that he had said something which he never

had said. On the other hand, the appellant produced two witnesses in defence who did not pretend to remember everything that the appellant said but whose evidence seems to me to imply a certain measure of corroboration for the evidence of the prosecution. I do not propose to discuss the speech at any length. If it was delivered as reported, I do not think that anybody could reasonably say that it was not intended to bring the government established by law in British India into hatred and contempt. Both the witnesses for the defence admit that the appellant spoke against imperialism. I have no doubt that imperialism, though it means very little, was supposed by the appellant to mean the government at present established in British India.

2. Learned Counsel has urged that the appellant was not preaching violence, although passages in the reported speech suggest that he was. The witnesses for the defence say that the appellant's object was not to preach violence, but, on the other hand, they have admitted that certain remarks were made which seem to suggest the contrary. The police report of one sentence in the appellant's speech was that freedom could not be obtained by sitting in the Anand Bhawan behaving like sanyasis. The first witness for the defence admits that that sentence was spoken by the appellant. I imagine that can mean nothing except that a policy of nonviolence is of no value in attaining freedom for India. Another passage in the police report is that the British Government, that is, the government established by law in British India, is practically a gang of dacoits and that the people of the country are entitled to defend themselves by violence against dacoits. Both the witnesses for the defence admit that there was some mention of dacoits and they do not say that it was in some other connexion that this word was used. On the whole I have not the slightest doubt that the report of the Sub-Inspector represents substantially what the appellant said. It appears that the appellant had no notes and I doubt very much whether he himself could remember what he did say in the excitement of making a public speech extempore.

3. I do not think I need say very much about the provisions of Section 124A, Penal Code. These provisions are very wide and in strict law they would cover everything that amounts to defamation of the Government if one excludes from the meaning of that term any criticism in good faith of any particular measures or acts of

administration. It may often be that the executive government is willing to ignore allegations and charges made against it in pursuance of a policy of admitting a certain measure of criticism or certain suggestions for constitutional reform or something of that kind, but if the Government comes into Court and asks for a decision from a Judge or a Magistrate whether particular conduct is or is not within the terms of Section 124A, the Court must express a perfectly fair opinion as between the parties apart from its own ideas of political expediency and the terms of Section 124A are so wide that much that may generally be regarded as justifiable speech would come within its terms. In the present case there is no doubt that the appellant was suggesting generally that the Government at present established by law in British India was thoroughly dishonest and unfair and that steps should be taken either by violence or by threat of violence to abolish it. A speech of that kind certainly comes within the provisions of Section 124A, Penal Code. There is no force in this appeal and I dismiss it.

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