

Ram Bharose and ors. Vs. Rex

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Court : Allahabad

Decided On : Jun-23-1949

Reported in : AIR1950All149

Judge : Seth, J.

Acts : Criminal Law (Amendment) Act, 1908 - Sections 17(1) and 17(2)

Appeal No. : Criminal Revn. No. 470 of 1949

Appellant : Ram Bharose and ors.

Respondent : Rex

Advocate for Def. : S.C. Asthana, Adv.

Advocate for Pet/Ap. : Shiv Charan Lal, Adv.

Judgement :

ORDER

Seth, J.

1. The applicants have been convicted of an offence under Section 17 (2), Criminal Law Amendment Act (Act XIV [14] of 1908). It has been found that they were members of a procession which paraded through the town of Kasganj, shouting Rashtriya Swayam Sewak Sangh slogans. It has also been found that the

three applicants were members of the Sangh which had been declared to be an illegal body by the Government.

2. The question for consideration is whether all these acts are offences under Section 17 (2), Criminal Law Amendment Act. Section 17 (2), Criminal Law Amendment Act reads as follows:

'Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.'

3. There is no proof that the applicants managed or assisted in the management of the unlawful association. It has also not been proved that they were the promoters of the meeting or they assisted the promoters of the meeting in any way. Assisting the promoters of the meeting would undoubtedly mean assisting them in the promotion of the meeting and not any other thing. The applicants have not, therefore, been proved to have committed any offence under Section 17 (2) of the Act.

4. They are, however, guilty of an offence under Section 17 (1) of the Act, according to which the membership of an unlawful association or taking part in meetings of any such association is an offence. The applicants have been proved to be members of an unlawful association. It has also been proved that they took part in its meeting. The conviction of the applicants should, therefore, be altered from a conviction under Section 17 (2) to a conviction under Section 17 (1), Criminal Law Amendment Act (Act xiv [14] of 1908).

5. Each one of the applicants was sentenced to one year's rigorous imprisonment and a fine of Rs. 300. This term of imprisonment was awarded because the maximum punishment provided for under Section 17 (2) is three years. The maximum punishment provided for an offence under Section 17 (1) is an imprisonment for six months. A sentence of one year's rigorous imprisonment under Section 17 (1) would not only be excessive but would also be illegal.

6. In all the circumstances of the case, I am of the opinion that ends of justice, will be met if the sentences of fine are maintained and the sentences of imprisonment reduced to the period already undergone.

7. This application in revision is, therefore, allowed in part. The conviction of the applicants is altered from a conviction under Section 17 (2), Criminal Law Amendment Act to a conviction under Section 17 (1), Criminal Law Amendment Act. The sentences of fine are maintained but the sentences of imprisonment are reduced to the period already undergone. The applicants need not surrender to their bail. Their bail bonds are discharged.

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