

**Atar Singh Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/457137](http://sooperkanoon.com/457137)

**Court :** Allahabad

**Decided On :** Oct-14-1963

**Reported in :** AIR1964All339; 1964CriLJ124

**Judge :** D.S. Mathur, J.

**Acts :** [Arms Act, 1959](#) - Sections 1(3) and 46; Arms Act, 1878; [General Clauses Act, 1897](#) - Sections 5; [Constitution of India](#) - Articles 226 and 245

**Appeal No. :** Criminal Revn. No. 509 of 1963

**Appellant :** Atar Singh

**Respondent :** State

**Advocate for Def. :** Asst. Govt. Adv.

**Advocate for Pet/Ap. :** B.N. Asthana, Adv.

**Disposition :** Revision dismissed

**Judgement :**

ORDER

**D.S. Mathur, J.**

1. This is an application in revision by Atar Singh to challenge the concurrent finding of the lower courts convicting him of an offence punishable under Section

19(f) of the Arms Act and sentencing him to six months' R.I. for being in possession of a country made pistol and two live cartridges without holding any licence.

2. The conviction has been challenged on a legal ground and also on facts. It may here be mentioned that the finding of fact recorded by the lower courts cannot be said to be improper and hence cannot be interfered with in Revision.

3. The [Arms Act, 1959](#), received the assent of the President on December 23, 1959, though it came into force sometimes in October 1962. The present offence was committed on 14-2-1962 and the police submitted the charge sheet and the Magistrate took cognizance of the offence long before the [Arms Act, 1959](#), came into force. However, in view of Section 46 of the [Arms Act, 1959](#), by which the Indian Arms Act, 1878, was repealed, it is contended that on the date the offence was committed and also on the date the Magistrate took cognizance of the offence, the Indian Arms Act, 1878, stood repealed and the prosecution could be under the [Arms Act, 1959](#), after it became a law. In the alternative, it is contended that after the coming into force of the [Arms Act, 1959](#), it was necessary for the prosecution to obtain sanction of the District Magistrate and without such sanction the trial could not proceed though before the commencement of the Act the trial for an offence committed under the old Act could proceed.

4. Section 1(3) of the [Arms Act, 1959](#), makes it clear that the [Arms Act, 1959](#), was to come into force on such date as the Central Government may by government notification in the official gazette appoint. In other words, even though the [Arms Act, 1959](#), was passed by the Parliament and received the assent of the President, it did not come into force at once and did not become the law of the country till the notification was issued by the Central GOVERNMENT and published in the official gazette. The ordinary meaning that can be assigned to Section 1(3) of the Act, therefore is that the [Arms Act, 1959](#), did not come into operation before October 1962 and, for all practical purposes, this Act did not exist till October 1962 and prior to that the Indian Arms Act, 1878, remained in force. The same inference can be drawn from Section 5 of the Central General -Clauses Act. Section 5 clearly provides that a Central Act comes into operation on the date on which it receives

the assent of the President only if the date of coming into operation of the Act is not expressed therein. In the instant case Section 1(3) of, the [Arms Act, 1959](#), clearly laid down the date on which the new Act was to come into force.

5. The Indian Arms Act, 1878, stood repealed under Section 46 of the [Arms Act, 1959](#). When the whole of the [Arms Act, 1959](#), did not come into force till October 1962, Section 46 of that Act was not in operation till that date. In other words, the Indian Arms Act, 1878, stood repealed in October 1962 and not earlier.

6. The last point contended on behalf of the applicant is that Section 1(3) of the [Arms Act, 1959](#), is ultra vires as it amounts to a delegated legislation. It is contended that the legislature should have laid down a reasonably clear statement of policy with regard to the enforcement of the enactment: either it could be indicated on which date the Act shall come into force or it should have been indicated when and in what circumstances the Act was to be enforced by the Central Government. Reliance was placed upon certain observations made in *M/s. Bhatnagars and Co. Ltd. v. Union of India*, (S) AIR 1957 SC 478. The observations relied upon pertain to the enactment itself and not the date of its commencement. With regard to the date of commencement of an Act duly passed by the legislature, the Courts of law need not be as strict as in the interpretation of enactments passed by the legislature. The Legislature gives expression to its legislative policy while making the law leaving the implementation thereof to the Government, or a subordinate authority. In determining from which date an enactment is to come into force, different matters have to be taken into consideration. For, example if the legislature decides to implement prohibition, one of the directive principles of the Constitution, it can make a law but at the same time postpone its implementation by making a provision that the Act shall come into force on the date to be notified by the Government. The effect of the prohibition law shall be to deprive the State of the income derived from excise duty etc. and at the same time the State shall have to employ a big staff to enforce prohibition. The enforcement of the prohibition law can thus cause a big loss to the State exchequer and it would ordinarily be advisable to delay the enforcement of the prohibition law till such time that the State can get over the loss to be suffered by enforcing the prohibition. No one can visualize when the State shall be able to

tide over the loss to be suffered as a result of the enforcement of the prohibition law. The legislature can therefore, lay down that though a law was being passed, it shall be for the Government to lay down from which date the Act shall come into force.

7. The same can be said with regard to the other social reforms. To send children to Jail has not been considered desirable simply because after coming into contact with, criminals young children are likely to become criminals and be a loss to the country as a whole. For educating delinquent children trained staff is necessary which shall naturally mean incurring heavy expenditure. If a law is passed to rehabilitate young criminals, it cannot ordinarily be immediately enforced. It is a different thing that the legislature may in its wisdom consider that the law be enforced at once though not throughout the State. In such a case it shall be laid down that the law shall come into force at once, but shall be applied to only a few districts or places and extended to others at the discretion of the Government.

8. In other words, in laying down whether the delegation of the power to fix date of commencement of the Act amounts to a delegated legislative authority, the Courts of law must take a liberal view and should not ordinarily declare such a provision to be ultra vires. In case the Government does not, within a reasonable period, issue a notification with regard to the commencement of the Act, the aggrieved parties have an alternative remedy. They can invoke the extraordinary jurisdiction of the High Court under Article 226 of the [Constitution of India](#) when it can be considered whether the circumstances justify the issue of a writ of mandamus or not.

9. Section 1(3) of the [Arms Act, 1959](#), giving power to the Central Government to lay down the date of commencement of the Act is thus not unconstitutional.

10. The revision has no force and it is hereby dismissed. The applicant is on bail and he shall be taken into custody forthwith to serve out the sentence awarded to him.