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Radhe and ors. Vs. Emperor

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Court : Allahabad

Decided On : Feb-08-1911

Reported in : 9Ind.Cas.630

Judge : Griffin, J.

Appellant : Radhe and ors.

Respondent : Emperor

Judgement :
ORDER

Griffin, J.

1. This is an application for revision of the order of the Magistrate convicting the four appellants of an offence punishable under Section 13 of the Gambling (Act III of 1867). The Magistrate found that the appellants were caught gambling on a kutcha public road just outside the limits of the Muzaffarnagar Municipality. The grounds taken in this application for revision are that as the scene of gambling was outside the limits of the Municipality, the accused ought to have been acquitted and secondly that the scene of gambling was not a public place or thoroughfare.

2. With regard to the latter ground it is sufficient to say that the Magistrate found that the scene of the gambling was on a kutcha public road. The first ground finds some support in the wording of Section 13 which is as follows:

A Police Officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in the playing of any game, not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid....

3. The learned Counsel for the applicant relies upon the words 'the limits aforesaid' and contends that these words can only mean the limits notified under the provisions of Section 2 of the Act, The remaining sections of the Act have been by notification extended to the Municipality of Muzaffarnagar. It is admitted that the scene of gambling is outside these limits. Section 13, in my opinion, is not very happily worded. Section 2 of the Act lays down that Sections 13 and 17 of this Act shall extend to the whole of the territories under the Government of the Lieutenant Governor and it shall be competent to the Lieutenant Governor to extend by notification all or any of the remaining sections to any city, etc., within the territories subject to his Government. To give affect to the interpretation which I am asked on behalf of the applicant to come to the words 'the limits aforesaid' would be, in my opinion, to make Section 13 conflict with the express provisions of Section 2. By that section, Section 13 extends to the whole of the territories subject to the Lieutenant Governor. It is not necessary that Section 13 should be extended by notification to any particular area. In order that Section 13 should not be read as conflicting with Section 2 it is necessary to hold that the words 'limits aforesaid' refer to territories under the administration of the Lieutenant Governor. I have not been referred to any authority on this point to support the contention advanced on behalf of the applicant. The application is dismissed.

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