

Abdul Hakim Vs. State

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Court : Allahabad

Decided On : Oct-06-1959

Reported in : AIR1960All450; 1960CriLJ1037

Judge : M.C. Desai, J.

Acts : [Press and Registration of Books Act, 1867](#) - Sections 3 and 12

Appeal No. : Criminal Revn. No. 1309 of 1958

Appellant : Abdul Hakim

Respondent : State

Advocate for Def. : K.C. Agarwal, Adv.

Advocate for Pet/Ap. : Gopal Bihari and ;Krishna Shanker Seth, Adv.

Disposition : Application dismissed

Judgement :

ORDER

M.C. Desai, J.

1. The applicant, who has been convicted under Section 12 of the Press and Registration of Books Act, is the manager, printer and proprietor of Asrar Karimi Press in Allahabad. Aman Ullah applicant in the companion case has been

convicted through the same judgment under Section 7 of the Copyright Act and Section 12 of the Press and Registration of Books Act.

2. In 1944-45 a firm in Allahabad, known as Rai Saheb Ram Dayal Agarwala, carrying on the business of publishing, printing and selling books, got a series of books known as Abr-e-Rahmat compiled by one Khan Saheb Chhotey Khan and got them approved by the Islamia Maktab Committee of Uttar Pradesh for use in Islamia Maktabas in the State. The series consists of a primer called Abr-e-Rahmat Primer and three volumes called Abr-e-Rahmat I, Abr-e-Rahmat II and Abr-e-Rahmat III. Chhotey Khan transferred his copyright in the series to the firm which now holds absolute copyright in it. The series was printed in Shanti Press at Allahabad, the manager of which is Habib Ullah. In May, 1955, Habib Ullah came across a primer of the same series published by the applicant in the companion case as proprietor of Kutubkhana Islamia and asked him how he published it.

The applicant apologised and surrendered to him all copies of the spurious primer. Subsequently he published another series of books called Rahmat e-Islam consisting of four volumes, one called Rah-mat-e-Islam Primer and the remaining called Rah-mat-e-Islam I, Rahmat-e-Islam II and Rahmat-e-Islam III. The contents of the primer and of each of the three volumes were almost the same as those of the Abr-e-Rahmat series. The Rahmat-e-Islam series was of the same design and get-up as the Abr-e-Rahmat series and the arrangement of the lessons was exactly the same. This series was printed at Asrar Karimi Press of the applicant. Habib Khan purchased Rahmat-e-Islam Vols. I, II and III from Aman Ullah and then a search was made of the Asrar Karimi Press from which vendlike forms and printed material of Rahmat-e-Islam series were recovered, and of the Kutubkhana Islamia from where printed copies of the series were recovered.

In the Rahmat-e-Islam primer the title of the primer is given as 'Abr-e-Rahmat' and though it was published by Aman Ullah and printed in Asrar Karimi Press the cover contains the imprint that it was printed by K.B. Agarwal at Shanti Press and was published by R.S. Ram Dayal Agarwal. All the lessons of the Abr-e-Rahmat are copied out in the spurious primer. Rahmat-e-Islam Vol. I is almost a copy of Abr-e-Rahmat Vol. I. The outer cover of Rahmat-e-Islam II is an exact copy of the outer

cover of Abr-e-Rahmat II, while the inner cover contains the name 'Rahmat-e-Islam' and most of the lessons are practically the same as in Abr-e-Rahmat II, the outer cover of Rahmat-e-Islam III bears the name 'Abr-e-Rahmat' while the inner cover bears the name 'Rahmat-e-Islam", and its contents are exact reproduction of the contents of Abr-e-Rahmat III with or without minor variations.

3. Aman Ullah has been convicted by the Courts below under Section 7 of the Indian Copyright Act and both the applicants have been convicted under Section 12 of the Press and Registration of Books Act. The conviction under the Press and Registration of Books Act is based upon the fact that the primer of the Rahmat-e-Islam series does not bear the names of the printer and the publisher.

4. There is no dispute about the facts which are fully proved. The conviction of Aman Ullah under the Copyright Act has not been assailed before me; it is correct and is maintained along with the sentence. Both the applicants challenge their convictions under the Press and Registration of Books Act. Section 3 of the Act lays down that 'every book or paper printed.....shall have printed legibly on it the name of the printer and the place of printing and..... the name of the publisher and the place of publication'. 'Book' is defined in Section 1 to include every volume and part or division of a volume. Section 12 lays down that 'whoever shall print or publish any book.....otherwise than in conformity with the rule contained in Section 3.....shall, on conviction before a Magistrate, be punished by fine.....or by simple imprisonment.' '

5. I take up the case of Abdul Hakim applicant, who is the actual printer of the Rahmat-e-Islam series. He printed the books at Asrar Karimi Press. The primer does not show his name as that of the printer and wrongly shows the name of K.B. Agarwal as the printer's. By printing the primer without printing his name and the place of printing, viz. Asrar Karimi Press, he infringed the provision of Section 3. He was not required to print anybody's name as that of the printer and any place as the place of printing; Section 3 would be complied with only if he printed his own name and the name of Asrar Karimi Press. He, therefore, committed the offence of Section 12 by printing the primer.

6. As regards Rahmat-e-Islam II, the outer cover contains the name 'Abr-e-Rahmat' which is printed at Shanti Press by K.B. Agarwal, though it was printed by the applicant along with the inner cover. By printing on the outer cover the name 'Abr-e-Rahmat' he might have conveyed the idea to the public that the outer cover was printed by K.B. Agarwal at Shanti Press but he does not thereby commit the offence of Section 12. The whole volume was printed at one place by one man and consequently the whole formed one book, as defined in the Act. If the whole of a volume is printed by one man at one place the whole is one book, and if the names of the printer and the place of printing are printed legibly at any place of it Section 3 is fully complied with. The names are required to be printed at only one place of a book and not at two or more places. The definition of 'book' includes a part of a volume but that applies only when different parts of a volume are printed by different men or at different places.

Every volume or every part of a volume printed by one man at one place is a book. If the whole [volume is printed by one man at one place, it cannot be split up into two or more parts each to be called a book requiring a separate imprint. The whole of Rahmat-e-Islam was printed by the applicant at Asrar Karimi Press and the whole is a book which contains the required imprint on the inner cover. Since the outer cover and the inner cover were both printed by the applicant at his press, it cannot be said that they form two books and that the former should have contained an imprint separate from the imprint on the latter. It would be absurd to divide a volume, the whole of which is printed by one man at one place, into two or more parts and require the imprint on each of them. Surely the Act does not require the imprint on every page of a volume.

The object behind Section 3 is to inform the public who is the responsible printer and to convey the information on the face of the book; see *Queen Empress v. Hari Shenoy*, ILR 16 Mad 443 and *In re, G. Alavandar* : AIR1957 Mad427 . The appellate Court seems to have found the applicant guilty of Section 3 in respect of Rahmat-e-Islam II on the ground that by printing the name 'Abr-e-Rahmat' on the outer cover he is deemed to have printed on the outer cover that it was printed by K.B. Agarwal at Shanti Press. I do not agree. He might be guilty of cheating the public by printing on the outer cover 'Abr-e-Rahmat', but he cannot be deemed to

have printed the outer cover that it was printed by K. B. Agarwal at Shanti Press. The name of a book is one thing and the name of its printer or of the place where it is printed quite a different thing. The law that every book must contain the name of its printer and the place where it is printed itself means that no inference of any kind about the name of the printer and the place of printing can be drawn from the name of the book.

A book bearing any name can be printed by any person at any place. If the applicant had not printed his name and the place of printing on the inner cover he would have infringed Section 3 on the ground of not printing at all the name of the printer and the place of printing and not on the ground that he printed on the outer cover the name of a person who was not the printer and the place which was not the place of printing. If he had not printed 'Abr-e-Rahmat II' on the outer cover, the omission to print his name and the place of printing on it would not have been said to infringe Section 3 as they were imprinted on the inner cover; printing the name of the book on the outer cover did not make it obligatory upon him to print his name and the name of his press also on it.

7. Similarly no offence has been committed by the applicant in respect of Rahmat-e-Islam III.

8. The Rahmat-e-Islam series does not contain the name of the publisher Aman Ullah; what is printed instead is that it is published by 'Kutub-khana Islamia'. Aman Ullah is the name of the publisher and not 'Kutubkhana Islamia,' which may be the name of Aman Ullah's shop. Section 3 requires the names of the human beings who print and publish the book and not the names of shops which can be changed at will. 'Kutubkhana Islamia' is not a registered firm. In the case of Hari Shenoy, ILR 16 Mad 443 (supra) the imprint 'printed and published at Cochin for the M. E. Company at the said Company's G. V. Press' was held not to amount to printing the names of the printer and the publisher. In *Emperor v. Bhawani Das*, 10 Cri LJ 195 (Lah), it was observed that the name of the printer as such and the name of the publisher as such must be printed and that 'printed in Hindustan Steam Press, Lahore, for the manager X under the superintendence of Y printer' was not enough. In the case of *Alavandar* : AIR1957 Mad427 (supra) it was observed that

printers and publishers cannot shroud themselves in a cloak of anonymity and carry on their nefarious cloak and dagger business without any possibility of their being successfully discovered. Imprinting 'Government Press, Allahabad' was held in *Emperor v. Joti Prasad*, 1887 All WN 95, not to amount to printing the name of the printer. The applicant, therefore, committed the offence of Section 3 also by not printing the name of Aman Ullah, publisher of the series,

9. I come to the other applicant, viz. Aman Ullah. He is the publisher of the series *Rahmat-e-Islam*. He could be guilty under Section 12 only if he published it otherwise than in conformity with the provision of Section 3, but Section 3 does not govern the act of publishing at all. The act of printing is quite distinct from the act of publishing and Section 3 only regulates the act of printing; it requires certain matters to be printed in the book. Merely because one of the matters to be printed in the book is the name of the publisher and the place of publishing, it cannot be said that it regulates the act of publishing. If the name of the publisher and the place of publication are not printed, it is only the printing that can be said to be not in conformity with the provision of Section 3 and not the act of publishing. When Section 3 does not deal with the act of publishing at all, it is difficult to understand how Section 12 deals with publishing otherwise than in conformity with the provision of Section 3. It is Section 5 that regulates the act of publishing; it reads as follows :

'No newspaper shall be published in the States, except in conformity with the rules hereinafter laid down.'

It may be that the defect in Section 12 consists of omission of a reference to Section 5; had the words 'or in Section 5' been added in Section 12 between the words 'in Section 3' and 'of this Act', the section would have made sense. As it is, the words 'or publish' in the section make no sense and must be ignored. Section 3 does not impose any obligation upon a publisher to see that his name and the place of publication are printed on the book and it is not open to a Court to interpret Section 12 as imposing it. If a Court has the power of amending Section 12, I see no justification for amending it by imposing the obligation upon the publisher and not by adding the reference to Section 5. Act No. 2 and 3 Vict.

Clause 12, Section 2, reads as follows :

'Every person who shall print any book.....and who shall not print upon.....book.....inlegible characters, his or her name..... and every person who shall publish..... any printed.....book on which the name...of the person printing the same shall not be printed as aforesaid, snail for every copy.....so printed.....forfeit a sum not more than five pounds'

This was a clear provision punishing a publisher of a printed book which did not contain the name of the printer. So in *Attorney General v. Beauchamp*, (1920) 1 KB 650, Beauchamp, who was the publisher but not the printer of a newspaper, was convicted for distributing copies of the newspaper on which was not printed the name of the printer. The question that arose in that case is different from the one that arises in the instant case. Section 12 of our Act does not punish the publication of a book not printed in conformity with the provision of Section 3. Instead it punishes the printing of a book not in conformity with the provision of Section 3, which does not impose any condition on the act of publication. In *Dattatraya Malhar v. Emperor*, AIR 1937 Bom 28, a Division Bench took a contrary view but without any discussion. The learned Judge did not at all direct their minds to the question how an act of publication can be said to be otherwise than in conformity with the provisions of Section 3.

10. It was contended on behalf of the State that the applicant should in the alternative be convicted of abetting the commission of the offence of Section 3 by the other applicant. This is a new case sought to be set up in revision. Moreover, there is no evidence of any abetment. The applicant certainly published the *Rahmat-e-Islam* series which did not comply with the provision of Section 3, but there is nothing to prove that he abetted the other applicant in the illegal printing. There is no evidence of any act done by him except that of publishing the series. Publishing it even though it did not comply with the requirement of Section 3 cannot amount to his abetting the infringement of the provision of Section 3 already done by the other applicant. The conviction of the applicant under Section 12 of the Act should be quashed.

11. The applicants are proved to be dishonest persons who were out to cheat the public and cause wrongful loss to the publisher of the Abr-e-Rahmat series and deserved severe punishment. They certainly deserved the imprisonment inflicted upon them by the trial Court and also fine. The appellate Court without any justification quashed the sentence of imprisonment passed upon the applicants. The sentence of fine of Rs. 500/- was not at all an adequate punishment.

12. The conviction and sentence of the applicant are maintained and his application is dismissed.

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