

Narain Das and anr. Vs. Emperor

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Court : Allahabad

Decided On : Sep-02-1918

Reported in : AIR1919All300(1); 51Ind.Cas.351

Judge : Tudball, J.

Appellant : Narain Das and anr.

Respondent : Emperor

Judgement :

Tudball, J.

1. The applicants have been convicted of criminal trespass under Section 448 of the Indian Penal Code, and have been sentenced to fines of Rs. 10 and Rs. 20, respectively. The Magistrate has written a long and detailed judgment in which he has set out the facts very clearly. The school building, which is the subject-matter of the dispute, was clearly not the property of the complainant in the case. It was built by public subscription and he started a school in it with the assistance of certain persons whom he subsequently refused to allow to interfere with his management of the school. On another school being started his pupils all left him and he closed down. He went away and in his absence the applicants and certain others took possession of the main building on behalf of the other school, which is also a public institution, and started to hold certain classes in it. The complainant returned and put a lock upon the building which the opposite party at once

removed. On these facts the Magistrate has held that the applicants have committed criminal trespass in that they entered upon the property with the intention of annoying the complainant. It is quite dear that there was no such intention in their minds at all. The intention with which they entered upon the property had nothing to do with the annoying of the complainant, and it is also very doubtful whether he was in possession of the building at the time when the entry was made. It was not his building nor had it been entrusted to him. He had closed the school and had gone away, and it is impossible to say that the applicants entered upon the building in order to insult or annoy him. On the facts found the applicants ought to have been acquitted. I allow the application and set aside the convictions and sentences. The fines, if paid, will be refunded.

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