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Jwala Vs. Emperor

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Court : Allahabad

Decided On : Nov-24-1933

Reported in : AIR1934All548; 147Ind.Cas.625

Judge : Sulaiman, C.J. and; King, J.

Appellant : Jwala

Respondent : Emperor

Judgement :

King, J.

1. This is an application in revision against a conviction under Section 19(f) of the Arms Act. The evidence shows that the house of Jwala the accused was searched by the police on certain information, and the result of the search was that an unlicenced muzzle loading pistol was found concealed under a heap of juar grain inside a vessel. Inside the barrel of the pistol 11 percussion caps were also found on removing a wad of cloth from the muzzle of the pistol. It is further proved that only Jwala and his sons and their wives were living in the kothri in which the pistol was found. Jwala's brothers are proved to have been living separately in separate kothris. Jwala himself had the key of the kothri and handed it over to the police at the time of the search after he had unlocked the door. Jwala's defence was that the pistol was not found from the vessel inside his room but from the thatch of the roof and that it must have been planted there by some enemy of his. It was also

argued that as the kothri was occupied by several persons therefore it could not be held that the pistol was in Jwala's 'possession' within the meaning of Section 19(f) of the Arms Act. Both the trial Court and the learned Sessions Judge have concurred in finding that the accused was in possession of the unlicensed pistol.

2. It has been argued before us that as the room in which the pistol was found was in the occupation not merely of Jwala but at least of his sons and their wives also, and that as two of his sons are said to be adults, therefore it could not be safely inferred that Jwala was in possession and control of the pistol, Reliance has been placed upon a ruling of a Bench of this Court in Kaul Ahir v. Emperor : AIR1933 All112 . We think that the ruling is distinguish, able upon the facts. In that case two loaded cartridges were found in the corn-bin of a house and the learned Judges came to the conclusion that the cartridges might have been dropped by some sportsmen and picked up by a child and handed over to the child's mother and it was quite possible that the head of the family was not even aware of the presence of tbe cartridges. In the present case the incriminating article is a pistol which is about 12 inches in length. We think that it is most unlikely that an article of this description could have been found by chance and made over to any of the women or children in the house. We do not know the age of Jwala's sons but even if they are adults, we think it most unlikely 'that that any of them could have taken possession of an unlicensed pistol and could have hidden it in the house without in-forming his father as the head of the family; also it is most unlikely that an article of this size and description should remain concealed in the house without the knowledge of the head of the family. We also note that Jwala has been convicted of dacoity. His only defence was a false denial of the fact that the pistol was found in a vessel inside his kothri. In all the circumstances of this case we feel no doubt that Jwala must have been aware of the presence of the pistol in his house and that he was 'in possession and control' of it within the meaning of Section 19(f) of the Arms Act. Every case must be decided upon its own facts, and we do not wish to lay down any general propositions of law. On the facts of this case we feel that there is no reasonable doubt regarding the guilty knowledge of the accused and uphold the conviction and the sentence, which is by no means severe. We dismiss the application. The applicant is on bail; he must surrender to his bail and serve on his sentence.

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