

Emperor Vs. Aladin

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Court : Allahabad

Decided On : Oct-26-1923

Reported in : (1924)ILR46All107

Judge : Ryves and ;Sulaiman, JJ.

Appellant : Emperor

Respondent : Aladin

Judgement :

Sulaiman, J.

1. In this case the accused has been convicted under Section 19(f) of Act No. XI of 1878 (The Indian Arms Act) for having been in possession of three empty cartridge cases without a licence. The defence put forward by the accused was that he had picked them up on the road without knowing what they were. He was, however, convicted and sentenced to six weeks' rigorous imprisonment.

2. The District Magistrate taking the view that empty cartridges like these do not come within the definition of ammunition as given in Section 4. of the Act, has referred this case to the High Court, and has relied on an old case of the Punjab Chief Court, Jaman Khan v. The Empress (1890) Punj. Rec., (Cr.) No. 20.

3. In the Punjab case two Judges of the Punjab Chief Court expressed the view that an empty case was merely a case for ammunition, and that, therefore, an empty case of an exploded cartridge would not be called a part of ammunition or ammunition. The case could not be turned into ammunition without a further elaborate process of fitting in a percussion cap and filling with powder and shot. They pointed out that an empty cartridge case was per se a harmless article, though it was capable of holding ammunition. They also remarked that if exploded cartridges were treated as ammunition, then any beater who picked up used cartridges thrown away by his employer would be guilty of the offence.

4. This case was, however, dissented from by Tudball, J., in the case of Baldeo Singh v. King-Emperor., (1909) I.L.R. 32 All. 152 following a case of the Bombay High Court, namely, Emperor v. Ebrahim Alibhoy (1905) 7 Bom. L.R. 474. In these two last mentioned cases it was held that the empty case of an exploded cartridge was part of ammunition within the meaning of Section 4 of the Act.

5. As the case raises a point of sufficient importance, and it is notorious that many people without a proper licence do pick up empty cases of exploded cartridges, it seems to me desirable that there should be a clear pronouncement by a Bench of two Judges.

6. As the sentence imposed was a short one, and, in any case, the offence committed by the accused was not of a very serious nature, it is possible that even if his conviction is upheld, the sentence may be reduced. I accordingly direct that he be released on bail to the satisfaction of the District Magistrate pending the disposal of this reference.

7. Let this reference be laid before two Judges for disposal.

8. The parties were not represented.

Ryves and Sulaiman, JJ.

9. This is a reference by the learned District Magistrate of Agra recommending that the conviction of Aladin under Section 19(f) of the Arms Act be quashed. Aladin

was prosecuted for having in his possession three empty cartridge cases. He was convicted and sentenced by the Deputy Magistrate to six weeks' rigorous imprisonment.

10. It seems to us that empty cartridges come within the definition of ammunition in Section 4 of the Act, and we follow the view laid down by a learned Judge of this Court in *Baldeo Singh v. King-Emperor* (1909) I.L.R. 32 All. 152. In our opinion, therefore, the conviction was right. We think, however, that the sentence was altogether excessive. In our opinion a fine would have been more appropriate than a sentence of rigorous imprisonment for this offence. As the accused Has already served some part of his Term, we alter the sentence to the term already served. As he is on bail, he need not surrender. Let the papers be returned.

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