

Tapti Prasad Vs. Emperor

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Court : Allahabad

Decided On : May-26-1917

Reported in : AIR1918All429(2); 41Ind.Cas.335

Judge : Piggott, J.

Appellant : Tapti Prasad

Respondent : Emperor

Judgement :

Piggott, J.

1. The applicant Tapti Prasad was Assistant Station Master at a Railway Station called Bharwari While he was on duty a collision took place, within the limits of that station between a down passenger train and an up goods train. The latter train was standing within the station limits but beyond the starting signal at the moment when Tapti Prasad gave the ' line clear' which permitted the passenger train to leave the next station on the line. The collision which followed was attended with loss of life, and the immediate cause of the collision was the action of Tapti Prasad in giving the 'line clear' for the passenger train under the circumstances stated. In doing so he contravened rules laid down for his observance, both general and special. The Magistrate who tried the case has written an admirable judgment in which he has set forth all the evidence and discussed it in an exceedingly fair and convincing manner. He found Tapti Prasad guilty and convicted him under Section

304 A of the Indian Penal Code and Section 101 of the Indian Railways Act IX of 1890. The convictions were affirmed and the appeal of Tapti Prasad was dismissed by the learned Sessions Judge. I have had to consider in the main two points. The less important of the two is a plea as to the severity of the sentence. This rests mainly upon Tapti Prasad's assertion that in giving 'line clear' at the moment when he did, and under the circumstances in which he did, he was acting under direct orders received from a superior officer named Dhani Ram, the "controller" at Allahabad. The Magistrate and the Sessions Judge have alike pointed out that this plea would in no case amount to a complete defence to the charge. It has, however, an important bearing on the question of sentence, and in view of the manner in which the Courts below have expressed themselves on the point, I thought it incumbent upon me to examine the evidence and to decide whether there was any reasonable basis for the plea taken. I am quite satisfied that there was not, and that the Courts below were right in holding, as they did in substance, that Tapti Prasad gave the 'line clear' on his own responsibility and without express orders from the controller.

2. The other point taken, and the one which goes to the root of the case, is that there was neither rashness nor negligence in the accused's action, as to bring it within the purview of Section 304A of the Indian Penal Code and that there was no disobedience to any rule, nor any rash or negligent act on his part, to make the provisions of Section 101 of the Railways Act applicable. I am satisfied that there was a distinct breach of the rules in giving the 'line clear' while the goods train was standing at the particular point where to the accused's own knowledge it was standing. Putting that matter on one side, I am also satisfied that the giving of the 'line clear' under the circumstances stated was a rash act. The plea to the contrary is based upon the fact that the approaching passenger train had to run past the distant signal of Bharwari Railway Station before it could collide with the goods train, and that the aforesaid signal was at 'danger.' The collision took place at night and it was a foggy night. I mention these circumstances rather as explaining how the collision occurred, and as bearing on the degree of culpability attaching to the accused's act, than as material in themselves on the question of law involved. The possibility of an incoming train passing a danger signal, either through some failure in the mechanism of the signal itself, or through some error or oversight on

the part of the driver, is a matter which is taken into consideration by the rules, and the interposition of a danger signal cannot be permitted, with any reasonable regard for the safety of the travelling public, to relieve an officer in the position of a Station Master, or Assistant Station Master on duty, from the obligation of observing strictly the rules laid down on the subject of granting or withholding the line clear'. Danger signal or no danger signal, it was a rash act on the part of the accused to have granted the 'line clear' under the circumstances stated. It is true that when he granted it he hoped that the goods train would be safely backed into a siding out of the way, before the incoming passenger train reached the station limits, and that within the time available this could have been done. To say this, however, is only equivalent to saying that the accused did not deliberately plot the bringing about of an accident involving imminent risk of life to his fellow creatures. In taking upon himself the responsibility of granting line clear,' when he knew that the line was not actually 'clear,' and taking it for granted that he would succeed in getting the line cleared within the time available, he displayed precisely that quality of mind which is indicated by the word 'rashness.' I cannot see my way to interfere either with the conviction or the sentence. The application is dismissed.