

Emperor Vs. Gobind Ram

Emperor Vs. Gobind Ram

SooperKanoon Citation : sooperkanoon.com/466169

Court : Allahabad

Decided On : Nov-28-1923

Reported in : (1924)ILR46All146

Judge : Walsh and ;Ryves, JJ.

Appellant : Emperor

Respondent : Gobind Ram

Judgement :

Walsh and Ryves, JJ.

1. The facts found or admitted in this case are that one Ram Chandar, which is alleged to be a pseudonym for Gobind Ram appellant, despatched from Kotah (a Native State) 111 bags of maize containing a large quantity of opium. The goods were addressed to the same name, Ram Chandar the consignee at Cawnpore, and arrived at Cawnpore in the train by which Gobind Ram and his servant travelled. He went to a dharamsala, and, being suspected of traffic in opium, he was there arrested and searched, and he was taken to the railway station where the truck containing the bags of maize was, and in his presence the truck was emptied and the maize examined and opium was discovered. In his possession was the railway receipt addressed by Ram Chandar in Kotah to Ram Chandar in Cawnpore. There cannot be the slightest doubt that he is the Ram Chandar indicated in the railway receipt. His possession of the railway receipt is almost

conclusive on the subject, and no explanation has been tendered, except the absurd story that it was planted on him. On these facts it is quite clear that he was rightly convicted of importing.

2. On the question of the meaning of the word 'importing,' we wish in the first place to draw attention to the fact that the case of *Munshi Lal v. Emperor* (1922) 20 A.L.J. 198, which was decided by one of us, has been entirely misunderstood by the author of the head-note in the Law Journal, and therefore apparently by the learned Judge who referred this case. The important passage in that judgment exactly fits this case:

'I say nothing to discourage the view that a person who exports from outside the United Provinces to a warehouse inside the United Provinces of which he is really the proprietor or temporary possessor even, under a false name, is, in fact, committing an offence under the Act and importing into the United Provinces, although he is also the person who exported from outside. It is perfectly possible for me to send an article for myself from the High Court at Allahabad to my Chambers in London, and if I did so with a dutiable article without declaration, I should be guilty of importing into England.' That exactly fits the case we have before us. It is pointed out in the judgment that the sentence under revision, which was quashed, was a contradiction in terms and that you cannot import to a place unless you are the person taking delivery inside the area. That is not intended, and never could have been properly understood as being intended as a comprehensive definition of 'to import.' It is merely a definition of a part of the act of importing, indicating that it must be a person who was intending to take delivery, or had the right to take delivery, or desired to take delivery inside the area. To say, as the head-note says in the report, that 'to import goods to a place means taking delivery of them at the place,' is absurd and inconsistent with the whole tenor of the judgment and with the actual language used. Mr. Justice Sulaiman appears to have thought the same thing, because he points out that in this particular case the applicant in revision had not taken delivery, and he therefore thought that a debatable point of law arose and he referred it to two Judges. But as a matter of fact, taking delivery is merely the final step and by no means the test, and was not intended nor was it said to be the test of importation. We think therefore that in any

event no point of law arises, and that the ambiguity suggested by Mr. Justice SULAIMAN is entirely due to a mistaken head-note.

3. A previous application in revision has already been made by the applicant in this case. The judgment of the Chief Justice who allowed that application, which related to an order of confiscation of the notes found in his possession, shows that the previous application for restoration of his notes was decided upon the basis that he was the owner of the opium, but that the money in his possession was the purchase price of the sub-sale. As a matter of general discretion, in our view, if a man makes an application to this Court in revision with full knowledge of the facts and deliberately keeps back one point, he will not be heard to make a second. It may be that the law gives him technical right to apply, but granting the application is a matter of discretion. If by some bond fide mistake, for which he is not responsible, or by the bond, fide mistake of some agent, if he happens to be in prison at the time, a real point is omitted, that may be an exception, but under ordinary circumstances this Court would reject an application on a second point. The application is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com