

Niazu Vs. State

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Court : Allahabad

Decided On : Apr-06-1961

Reported in : 1962CriLJ123

Judge : W. Broome, J.

Appellant : Niazu

Respondent : State

Judgement :

ORDER

W. Broome, J.

1. Niazu, the applicant in this criminal revision, has been convicted by a first class Magistrate of Muzaffarnagar for an offence Under Section 19(1) Arms Act and has been sentenced to one year's R. I. His conviction and sentence were confirmed in appeal by the Sessions Judge of Muzaffarnagar.

2. The prosecution allegations were that at 10 a.m. on 13-6-1960 a Sub-Inspector of Police accompanied by three constables happened to pass through the village of Shanjjur, and saw the accused Niazu sitting near the culvert of a water channel by the roadside, that the accused ran away on seeing 'the police approach but was chased and arrested, and that when he was searched after his arrest, an unlicensed pistol and two live cartridges were recovered from a 'hula' which was

found in his possession.

3. The sole argument advanced on behalf of the applicant in this revision is that the prosecution allegations disclose an offence Under Section 20 of the Arms Act and that consequently the accused should have been tried by 'he court of Session. Section 20 is applicable to cases of possession of unlicensed arms where the accused has the arms is his possession or under his control

in such a manner as to indicate an intention that such act may not be known to any public servant as defined in the IPC or to any person reemployed upon a railway or to the servant of any public carrier.

In the present instance learned Counsel for the wife ceases to be a wife by reason of divorce, the applicant argues that the alleged conduct of applicant in running away on seeing the police indicates an intention on his part to conceal the possession of the unlicensed arms from the police, and therefore Section 20 would be applicable But it seems to me that mere running away at the sight of the police is not necessarily an indication of a desire to conceal unlicensed arms. Criminal and vagabonds are quite likely to run away so as to keep out of the clutches of the police, even if they have no arms hidden on their persons.

The 'case of Harnam Singh v. Emperor A.I.R. 1929 Lah 576 is a good illustration of this. In that case there were two persons who ran away on seeing a policeman approach and be of them was found to' have¹ unlicensed arms in his possession, while the other had none. As remarked by the learned Judge who decided that case;

It has also been argued before me that the fact that the appellant ran away when challenged by the constable indicates an intention of the character mentioned in Section 20, In this connexion, however, I note that the appellant had a companion who also ran away but upon where Person nothing incriminating was found. No such intention can be credited (to the appellant's companion on 'the ground that he ran away and the arena argument should hold good for the appellant.

4. It is to be noted that there is nothing in the present case to suggest that the accused had taken any special precautions to conceal the unlicensed arms from the police. In fact it seems that he never anticipated meeting the police at all and was taken completely by surprise when they appeared on the scene. In such circumstances the mere fact that he ran away cannot be taken as sufficient to indicate the intention that is necessary in order to bring the case within the purview of Section 20 Arms Act.

5. The applicant has been rightly convicted Under Section 19(f) Arms Act, and I decline to interfere with his conviction or his sentence. This revision application is accordingly rejected.

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