

Nanhua Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/466749

Court : Allahabad

Decided On : Nov-09-1937

Reported in : AIR1938All118; 173Ind.Cas.732

Appellant : Nanhua

Respondent : Emperor

Judgement :

ORDER

Bennet, J.

1. This is a criminal reference by the learned Sessions Judge of Fatehpur recommending that a conviction of one Nanhua under Section 186, I.P.C., and fine of Rs. 20 or in default 20 days rigorous imprisonment should be set aside on the ground that the facts proved do not disclose the offence. The Judge sets out that a constable was on traffic duty at crossing and Ashiq, brother of the accused, passed on an akka and the constable tried to stop Mm but Ashiq did not obey the order. Shortly afterwards the accused appeared and abused the constable in threatening language for having attempted to stop his brother. The constable made a report and on those facts the accused has been convicted under Section 186, I.P.C. That section states that whoever voluntarily obstructs any public servant in the discharge of his public functions shall be guilty of the offence. Now, the public functions of the constable at the time was the regulation of traffic at a

crossing on a public road. The action of the accused prevented the constable from giving his attention to the traffic The Judge states:

Now the word 'obstruction' as used in Section 186 means physical obstruction, i.e. actual resistance or obstacle put in the way of a public servant. The word implies the use of criminal force and mere threats or threatening language would not be sufficient to constitute the offence under this section.

2. I do not agree with the view of the learned Judge. It appears to me that where the constable is prevented by the I accused from regulating the traffic, the exact means employed by the accused if he acte intentionally do not matter. For example, if a constable had to give orders 4o traffic and the accused took a musical instrument and played so loudly that the orders of the constable could not be heard, this in my view would have obstructed the constable. Similarly if the constable were giving signs and the accused stood in such a manner that the signs could not be seen this again would have obstructed the constable. In the present case the action of the accused certainly did prevent the constable regulating the traffic and the interference with the functions of a traffic constable is a matter of danger to the public. It has been laid down by a Bench of this Court in Emperor v. Tohfa : AIR1933 All759 that threats of violence made in such a way as to prevent the public servant from carrying oat his duty might easily amount to an obstruction of the public servant. Accordingly, I refuse this application for revision of the conviction and the sentence and the record will be returned.