

**Ram Prasad Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/466823](http://sooperkanoon.com/466823)

**Court :** Allahabad

**Decided On :** Sep-26-1932

**Reported in :** AIR1933All95; 140Ind.Cas.497

**Appellant :** Ram Prasad

**Respondent :** Emperor

**Judgement :**

**Pullan, J.**

1. The applicant Ram Prasad has been convicted of an offence under Section 17(1), Criminal Law Amendment Act, 1908, and ordered to pay a fine of Rs. 100, As a matter of fact, he underwent an illegal sentence of 3 months' rigorous imprisonment for failure to pay the fine and whatever may be the merits of this conviction, this Court is bound in revision to set aside the order of fine. The offence which the applicant is alleged to have committed is as follows. He is a shopkeeper and he displayed the Congress flag over his shop. A Police Sub-Inspector asked -him to take it down and he refused, but offered no objection to the removal of the flag by the police. Section 17(1), Criminal Law Amendment Act, renders liable to punishment any person who 'in any way assists the operations' of an unlawful association. When this flag was displayed, the Congress had been declared to be an unlawful association and the flag displayed was the Congress flag. The Magistrate and the learned Sessions Judge are of opinion that in the

circumstances of the case, the display of this flag over the shop of the applicant assisted the operations of the Congress. It appears that in this district, a notice had been published on 18th January 1932 by the District Magistrate warning the public that by setting up Congress flags on their shops they are assisting the operations of the Congress, but there was no magisterial order forbidding the setting up of these flags, nor can the Magistrate's warning be taken to be a judicial pronouncement that the display of such flags is a criminal offence.

2. There is nothing in the present case to show that the applicant is himself either a member of the Congress or even a sympathiser. Many shopkeepers display these flags because they believe that by doing so they will increase the popularity of their shop among certain sections of the public and the main object of the person who displays the Congress flag over his shop is to increase his own business. It may be that the particular aims of the Congress party are promoted by a display of flags on the shops, but in the present case there is no evidence that there were any particular activities of the Congress party which the applicant could be held to assist by his display of the Congress flag at that time. In my view, the display of such a flag, apart from the shop-keeper's motive in obtaining custom is no more an expression of sympathy with the Congress propaganda on the part of the person who displays the flag and an expression of sympathy is not a criminal offence. In his judgment the learned Sessions Judge mentions a speech of the late Home Member, Sir James Cedar, in which he said that he was not aware that the flying of any flag is in itself either illegal or seditious. In my opinion, some special enactment would be necessary to render the display of a flag a criminal offence, and as there is no such enactment in force, I am of opinion that this conviction was illegal. I accordingly allow the application and set aside the conviction. The fine if paid will be returned.