

Emperor Vs. Angad

Emperor Vs. Angad

SooperKanoon Citation : sooperkanoon.com/467860

Court : Allahabad

Decided On : Oct-03-1928

Reported in : AIR1929All69; 117Ind.Cas.822

Appellant : Emperor

Respondent : Angad

Judgement :

1. The point raised in this appeal is concluded by authority. The learned Judge was of opinion that sanction of the District Magistrate was necessary to the prosecution of a person under Section 19(f) of the Arms Act (11 of 1878) for possessing arms without a license in the District of Aligarh. His attention was not called, it appears to the judgment of Daniels, J., in Amir Ahmad v. Emperor : AIR1926 All143 which was subsequently followed by a Bench of two Judges in this Court in Emperor v. Abdul Ghafur : AIR1929 All68 . The learned Judge has missed the point that the District of Aligarh was a locality to which Section 32, Clause (2), Act 31 of 1860, applied on the date in 1878 on which the Arms Act came into operation. Clause (2), Section 32, Act 31 of 1860 enacts as follows:

In every such province, district or place in which an order for a general search for arms has been issued and is still in operation under Act 28 of 1857, it shall not be lawful for any person to have in his possession any percussion caps sulphur etc, without a license.

2. In the District of Aligarh, therefore, in accordance with the terms of Section 29 of the Arms Act, sanction of the District Magistrate was necessary only for three months after 15th March 1878, and not subsequently. It may be repeated here that the Government Gazette of the North-Western Provinces for the year 1858 contains a notification issued by the Governor-General No. 5336, dated the 21st December 1858 extending the provisions of Sections 1, 2 and 5 of Act 28 of 1857 to the whole of the North-Western Provinces and at the same time authorizing a general search and seizure of arms in those parts of the Provinces which lie to the North of the rivers Jamna and Ganges. As pointed out by Daniels, J-this notification has not been repealed and reference to it has been repeated in para. 92 of the Arms rules and orders issued under the authority of the United Provinces Government in 1924.

3. On the merits the conviction must be upheld. We however think that the fine is unnecessarily heavy. We set aside the Sessions Judge's order of acquittal, convict Angad under Section 19(f) of the Arms Act and impose a fine of Rs. 10 or in default 15 days rigorous imprisonment. If the fine is not paid within two weeks of to-day's date in the Court of trial, Angad shall surrender to undergo the sentence. If any excess fine has been recovered, it shall be refunded.