

Chedi Vs. Emperor

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Court : Allahabad

Decided On : Jul-03-1931

Reported in : AIR1932All187; 140Ind.Cas.116

Appellant : Chedi

Respondent : Emperor

Judgement :

ORDER

Bajpai, J.

1. Chhedi has been convicted by a Magistrate of the First Class under Section 60(a), United Provinces Excise Act, and sentenced to six months' rigorous imprisonment and a fine of Rs. 50. His conviction was affirmed in appeal by the learned Sessions Judge of Benares, but the imprisonment was reduced to three months. He has come up in revision 'before this Court and Mr. Saila Nath Mukerji appearing on his behalf has taken the point that the Magistrate having no jurisdiction to try the case the conviction is bad in law.

2. The way in which this contention has Keen developed before me is that under Section 70, Local Act 4 of 1910, no Magistrate can take cognizance of an offence punishable under Section 60 except on his own knowledge or suspicion or on the complaint or report of an excise officer. The present trial proceeded on the report of a Sub-Inspector of Police, and it is argued that a Sub-Inspector of Police is not

an excise officer within the meaning of Section 3, Sub-clause (2) of the Act. That provision says that an excise officer means a Collector or any officer or person appointed or invested with powers under Section 10, and when one looks to Section 10 it appears that by no notification of the Local Government has a police officer been invested with the power of filing a complaint under Section 60. The answer by the Crown is that, if a person or officer has been invested with any power under Section 10, then he becomes an excise officer for the purposes of Section 70, and my attention has been drawn to Government Notification, dated 13th July 1910, as amended by Notifications, dated 11th October 1913, 6th June 1917 and 8th September 1920, the conjoint effect of which notifications is that a police officer is invested with certain powers in connexion with the seizure of excisable articles and the arrest of suspected persons. A reference to all these notifications would be found at one place on p. 7 of the Supplement to the Excise Manual, Vols. 1 and 2, corrected up to 1st July 1922. I am in perfect agreement with the way in which Clause (2), Section 3 is interpreted by the learned Assistant Government Advocate. I am supported in this view by the case of Emperor v. Chhater Singh A.I.R. 1924 All. 267, the case of Prag v. Emperor [1915] 16 Cr. L.J. 591 and the decision of the Oudh Chief Court in Kallu v. Emperor Oudh Cr. Revn. No. 67 of 1926. A Sub-Inspector has the power under the notifications to arrest without warrant a person found committing an offence punishable under Section 60. He has further been given the power to seize and detain excisable articles, and as was pointed out in Chhater Singh's case (1):

it was unnecessary, and would have complicated matters, for the Local Government, to issue a further notification authorizing persons on whom it had already conferred powers for the purposes of the Act to do something which the Act says any excise officer may do, that is to say, to issue a separate notification authorizing him to submit a report or complaint to the Magistrate.

3. I am of the opinion that there is no force in this revision and I dismiss it. The accused who is on bail will surrender to his bail bond and servo out the remainder of the sentence.