

Mohammad Husaln and anr. Vs. Emperor

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Court : Allahabad

Decided On : May-01-1919

Reported in : 51Ind.Cas.197

Judge : Stuart, J.

Appellant : Mohammad Husaln and anr.

Respondent : Emperor

Judgement :

Stuart, J.

1. On the 17th of October 1918 during the Mohurrum procession in Bareilly a Julaha called Mindhai ran to a Police Station in the town with a report that a conch was being sounded in a Hindu temple adjoining the route of the procession in contravention of the Magistrate's orders. Mindhai with two other Julahas Mohammad Husain and Bhaggu then ran to the procession and shouted to the crowd that the Hindus were sounding conches and that the Tazias should be put down.

2. Thereupon the Tazias were put down and the procession was stopped. In the course of the criminal proceedings that followed, it was found that the report that conches were being sounded was absolutely untrue, that the Hindus were giving no provocation of any kind and that Mindhai, Mohammad Husain and Bhaggu

spread false rumours which might have affected the Muhammadan crowd very seriously. Mindhai was convicted under Section 182 for making a false report to the Police. All three men were convicted under Section 296, Indian Penal Code, for voluntarily causing disturbance to an assembly lawfully engaged in the performance of religious worship or religious ceremonies. Mohammad Husain and Bhaggu have come up in revision. Mindhai has made no application. No offence has been made out under Section 296. It cannot possibly be said that any of these men voluntarily caused disturbance to the procession. They caused no disturbance to the procession; they spread false rumours which caused the procession to come to an end. Fortunately the Muhammadans composing the procession were not incited to any act of violence against the Hindus. The actions of the applicants, although they might have had the most serious consequences, cannot be described as 'causing a disturbance' to the procession and their convictions under Section 296 must be set aside. It would appear that a prosecution may have lain on these facts under the provisions of Section 505 (c), Indian Penal Code, for having circulated a false report which was likely to incite a class or community of persons to commit an offence against any other class or community. No such prosecution can, however, lie under the provisions of Section 196 of the Code of Criminal Procedure unless upon a complaint made by order or under authority from the Governor-General in Council, the Local Government or some officer empowered by the Governor General in Council in this behalf, and in the absence of such authority, I have no jurisdiction to frame a charge under this section.

3. The result is that the convictions being set aside, the bail bonds will be cancelled.