

Rangpal and ors. Vs. Emperor

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Court : Allahabad

Decided On : Nov-17-1916

Reported in : AIR1917All85; 40Ind.Cas.314

Judge : George Knox, J.

Appellant : Rangpal and ors.

Respondent : Emperor

Judgement :

George Knox, J.

1. This appeal is presented by nine persons who have been convicted of offences under Section 147 and Section 333 read with Section 149, Indian Penal Code; for the offence of riot, they have each of them been sentenced to three months' rigorous imprisonment, and for the offence under Section 333 read with Section 149, Indian Penal Code, they have been sentenced each of them to two years' rigorous imprisonment. The sentences are by the order to run concurrently. The facts found by the learned Sessions Judge with the concurrence of the assessors are as follows:-Two persons Raj. Man and Bisheshar for whose arrest warrants were out were arrested by the Police and were on their way to the Police Station. Saran, one of the convict appellants, raised an alarm to the effect that his sons were being removed by the Police and called for a rescue party. Some 50 people more or less assembled armed with lathis and surrounded the Police. Under

Saran's directions an assault was committed upon the Police, a party consisting of a naib daroghd, constables and chowkidars. Raj Man and Bisheshar got released. They also began to use lathis. The learned Judge says that there is no doubt about the identification of the nine accused before him as persons who took part in this riot and rescue. The Police received a number of injuries and one constable received grievous hurt as his thumb was broken. A good deal of time was taken up in arguing the question whether the arrest in the present case was a legal or illegal arrest. It was contended that it was an illegal arrest, inasmuch as

(1) the warrants or orders for arrest were illegal,

(2) the substance of the warrants or orders was not notified to the persons arrested before they were arrested or at the time of their arrest,

(3) that in consequence of these irregularities the Police cannot be held to have been assaulted while in execution of their duty as Police Officers. None of these pleas appear to me to be entitled to weight. The orders for arrest have been read over to me. They were within the power of the officer who gave them. He was not, it is true, an officer in charge of the Police Station, but he was an officer superior in rank and had the same powers as the officer in charge of the Police Station. In the present case one may go further and question whether there was any necessity for any order. The persons arrested came within the first Clause of Section 54, Criminal Procedure Code, and they might have been arrested without an order from the Magistrate and without a warrant. The writing out of a warrant or an order for arrest was a superfluous act, and because it was a superfluous act, it cannot be considered to be illegal. Some argument was addressed to me to the effect that the prosecution had not proved that the injury to Ram Lachman Singh was an injury caused at the time of the assault upon the Police and in furtherance of the common object of the unlawful assembly, which was the rescue of the two men Raj Man and Bisheshar. So far as I know, and no evidence to the contrary has been read to me, there was no separate assault other than the assault which I have set out as committed upon the Police. It was a fair inference for the learned Sessions Judge to draw in the absence of such evidence that the injury was caused in the soufflé which then took place. If the intention of the defence was to

make an interval of time and to raise a doubt whether the injury might not have been caused before such interval or after such interval, they should have drawn attention to the fact in cross-examination. I have heard no cross-examination pointing to that result. There is a plea taken to the effect that the order for arrest was not shown to Raj Man and Bisheshar which in the course of the argument whittled down to the plea that the substance of the order was not notified to those two men. Even if it were not notified, I am not prepared to hold that that was an omission which could not be covered by Section 537 of the Code of Criminal Procedure. I looked and asked when this point was first raised in order to arrive at a decision I was referred to nothing earlier than the Sessions. trial. 1 examined, however, the statements made by the accused before the Committing Magistrate, and in none of those statements did I find any question raised on this point.

2. The pleas 5, 6, and 7 were not directly argued before me, and no particular stress was laid upon them.

3. There was a plea that Section 333, Indian Penal Code, has no application and that the offence came under Section 334, Indian Penal Code. Section 334 is in no way applicable. There was no grave and sudden provocation within the meaning of that expression.

4. Now comes the question of sentence. What are the facts? A village of Ahirs, and the Ahirs deliberately attacked a large body of Police who were carrying out their duty as public servants. It was a grave offence upon the law, and I agree with the learned Sessions Judge that it called for sentence. Possibly the sentence might have been altered with advantage in the direction of strong security for keeping the peace; but that was not done, and I leave that alone. I take the sentences as they stand, and I think they are not one whit too severe under the circumstances of the case. The appeals are dismissed.