

Ram Parshad and ors. Vs. Emperor

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Court : Allahabad

Decided On : Aug-24-1916

Reported in : 39Ind.Cas.687

Judge : Walsh, J.

Appellant : Ram Parshad and ors.

Respondent : Emperor

Judgement :

1. This is a very unfortunate business. Sections People who live in India and make their livelihood out of India, must take things as they find them, provided of course they are not annoyed and inconvenienced by breaches of the law. It seems to me that in this case Mr. Russell was a great deal too hasty. Everybody from time to time has to put up with inconveniences from noise when other people are amusing themselves. On this occasion there appears to have been a recognised festival with recognised celebrations at night, and I am satisfied that these accused persons were engaged in a perfectly lawful occupation which unfortunately happened to disturb and annoy Mr. Russell. If they were committing a breach of the law, his proper course was to ascertain some of their names and lodge a complaint before the proper Court, but apparently there was nothing of that kind open to him and he, therefore, took the law into his own hands. To cut a long story short, he bungled the business. He seems to have been convicted of some assault in some previous stage of his career which caused the man's death, and

apparently he is not a gentleman who has got himself particularly under control, He took away one of their drums and tried to frighten them into submission by carrying a lantern and threatening them with the Collector. Whatever the truth about the original taking of the drum may be, Mr. Russell must have realised perfectly well at the later interview, that the party were hurt at the loss of their drum and wanted it back, and that the result of his intervention up to that time, instead of having persuaded them to meet his views, had only irritated them and aggravated their grievance. A sensible man, at that stage, would have made the best of a bad business and gone home. Instead of that he remained upon the scene with his servants trying to reduce them to submission. Having failed in securing his object he turned tail and they, having been already sufficiently aroused, lost their tempers and took the opportunity of inflicting punishment upon him. Whether he kicked them or they hit him first, it does not very much matter. The result is that they broke the law under this provocation and they have got to suffer for it, but I think no public question is raised by the case at all. It is purely a matter between Mr. Russell and the accused in which Mr. Russell was mainly in fault and has paid the penalty with a broken arm, while they have paid the penalty with various terms of imprisonment. I cannot bring myself to believe that the circumstances were ever intended to be included in the legal definition of riot, and holding that view I cancel the conviction for riot. I am not satisfied that it is made out that any of them, voluntarily caused grievous hurt, and under the circumstances of the case the ends of justice will be met by convicting the appellants under Section 352, Indian Penal Code, of assault. I am not satisfied that a fine would not meet the ends of justice, except in the case of the two appellants who are found to have used the lathis on Mr. Russell's arm, but the three appellants who are now out on bail have been in prison nearly one month, and the other three who are still in jail, have been in prison for three months. Although the result is rather inequitable, I think the punishment is sufficient under the special circumstances, and I order that those in prison be discharged, and that the sentences of the three on bail be reduced to the term which they have already undergone. The order under Section 106 must be cancelled. As I am disagreeing with the Judge, I think it only right to point out that he was of the opinion, with which I entirely agree, that Mr. Russell had no legal right to try and stop the noise, and that his conduct was ill advised

and legally, if not morally, unjustifiable. The Judge, who has devoted great care to the case, appears to have been influenced by the fact that some of the accused, at a later stage of the proceedings, set fire to the house of Hira Singh and raised the outcry that Mr. Russell had done it, and he also says that the use of the lathi is too prevalent in this particular district. Where that is so, it is perfectly right to visit it with severe punishment, but I do not think, that where persons who have been provoked, as these persons had been provoked, and lose their tempers, they ought to suffer for the general alleged turbulent character of the district. There is nothing in their conduct to show that they are not ordinarily peaceful persons.

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