

Manohar Vs. Emperor

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Court : Allahabad

Decided On : May-23-1918

Reported in : AIR1918All85(1); 47Ind.Cas.91

Judge : P.C. Banerji, J.

Appellant : Manohar

Respondent : Emperor

Judgement :

P.C. Banerji, J.

1. The applicant, Manohar, has been convicted under Section 182 of the Indian Penal Code, under the following circumstances. He submitted a petition to the District Magistrate in which he stated that certain tenants occupying his houses had absconded, leaving the houses looked up, and he prayed that the houses might be unlocked and opened to enable him to execute repairs, as otherwise the houses would fall down when the rains began. The application was sent to the Police for compliance and report. The Sub-Inspector reported that the allegations in the petition were untrue. Thereupon the District Magistrate sanctioned the prosecution of the accused under Section 182 of the Indian Penal Code, and he was tried and convicted. The question is whether the conviction is legal. Under Section 182 a person who gives to a public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely

that he will thereby cause, such public servant to do any of the things mentioned in Clause (a) or Clause (b) of the section, would be liable to punishment. In this case it is not alleged that Clause (b) is applicable. The question is whether Clause (a) applies. Under that clause the false information must have been given with the intention or the knowledge that the public servant would do or omit any thing which he ought not to do or omit if the true facts were known to him. In the present case, if the true state of facts were known to the District Magistrate, he would not be legally competent to issue the order which he issued or which was asked for. It is equally clear that he would not be competent to make the order if the information given to him was untrue. It seems to me that Clause (a) of Section 132 applies to a case in which it is intended that a public servant should do or omit to do something which he ought to do or omit to do if he knew the true facts, that is, which he would be legally justified in doing or omitting to do if he knew the true facts. Asking a Magistrate to do an act which would be an illegal act even if true facts were stated to him would not, it seems to me, come within the purview of the section. The information must be information regarding a fact which would induce the Magistrate to do something which he would be legally competent to do if he had been cognizant of the true facts. As I have already stated, if the true facts were before the Magistrate he could not have issued the order which he issued to the Police. By reason of the true facts not being stated he issued an order which he could in no case have issued. Therefore it seems to me that the present case is not a case to which the section applies. I allow the application, set aside the conviction and sentence, and direct that the fine imposed on the applicant, if paid, be refunded.