

Azizur Rahman Vs. Hansa

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Court : Allahabad

Decided On : Jun-27-1918

Reported in : 47Ind.Cas.441

Judge : George Knox, Acting C.J.

Appellant : Azizur Rahman

Respondent : Hansa

Judgement :

George Knox, Acting C.J.

1. This is an application for revision of an order passed by the Magistrate of Agra, whereby an order of a First Class Magistrate of Agra was confirmed. The First Class Magistrate of Agra had before him an application asking him to enforce the provisions of Sections 1 and 2 of Act XIII of 1859. All that appears before me on the record is an order in which the learned Magistrate arrives at the conclusion that the suit does not lie under Act XIII of 1859. No evidence appears to have been taken and all that is on the record is the contract. Act XIII of 1959 is an Act which has been extended to the station of Agra. The contract is upon a stamp paper and it recites that it is a contract under Act XIII of 1859. The First Class Magistrate sets out what he believes to be the obvious object of Act XIII of 1859. He says that 'it was designed to prevent coolies or labour contractors fraudulently bolting with the advances necessary for obtaining work from them and it was not designed to

secure the employers enforcement of elaborate contracts with skilled artisans.' I do not know from what source the learned Joint Magistrate obtains this. There is nothing in the Act to this effect. The learned Joint Magistrate will do well to consider the ruling by which he is bound, namely, *Queen Empress v. Indarjit* 11 A. 262 : A.W.N. (1889) 85 : 6 Ind. Dec. (N.S.) 595. Having placed this interpretation upon the object of the Act, the learned Joint Magistrate went on to pass an order for which there is no warrant that I know of. That order runs as follows:-- 'The accused till to-morrow should produce balance of money due to the complainant. If he does so and the complainant takes it, accused will be acquitted. If he does so and complainant refuses the money, the case will be dismissed. If he does not produce it, it will be a clear case of bad faith and I shall proceed against him under Act XIII of 1859.' The morrow came and the accused produced the money required of him. The complainant refused to take it, saying that he wished to have the work done by the accused. The learned Joint Magistrate professed to act upon a ruling of the Bombay High Court, to which he is not subordinate and which he should not follow when he has before him rulings of this Court. I cannot moreover sanction the unwarrantable language used by the Joint Magistrate regarding an Act in the Statute book. He says: 'it is altogether preposterous that this Act, designed to protect people who make cash advances in order to import of secure manual labour from people not worth powder and shot in the Civil Court, should be prostituted in this way by employers, of skilled artisans.' The learned Joint Magistrate had no right to use language of this kind regarding a Statute which is in force and which he is bound to respect. The Act is in full force in the station of Cawnpur for instance, and for ought I know may be in full force in the station of Agra.' I call the attention of the Courts below to the case of *C.J. Lucas v. Ramai Singh* 23 Ind. Cas. 185 : 12 A.L.J. 152 : 15 Cr.L.J. 233 and *Bakhtawar v. Emperor* 43 Ind. Cas. 832 : 16 A.L.J. 164 : 19 Cr.L.J. 240 : 40 A. 282, both to be found in 16 A.L.J.R. 161 The learned Joint Magistrate says that he cannot compel Hansa to continue the work which he contracted to perform because it requires him to sit very near the fire. He is said to have been working in the same situation in another factory. This may or may not be true. But the matter should have been enquired into and evidence fully taken. This was not a case for summary disposal. I set aside the orders of both the Courts below and I return the case in order that it may

be dealt with strictly in accordance with the provisions of Act XIII of 1859.

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