

Bahri Vs. Emperor

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Court : Allahabad

Decided On : Jun-30-1925

Reported in : AIR1926All263

Appellant : Bahri

Respondent : Emperor

Judgement :

Boys, J.

1. A woman has been convicted under Section 118(1)(a)(iii) of the Cantonment Act (2 of 1924) for having 'wilfully and indecently exposed her person.' The learned District Magistrate has referred the case to this Court, without going into the evidence, on the ground that in his opinion there can be no conviction under that section. He says 'that offence is wilful or indecent exposures of the person. If as alleged, the woman went into the barracks for immoral purposes she can have given no offence by her exposure.'

2. The giving of offence by the exposure is not a necessary ingredient of the offence under Section 118(1)(a)(iii). The offence is complete if the exposure is 'wilful or indecent' and in a public place.

3. Parenthetically I would observe that 'or' would seem to be a mistake in the Act for 'and.' The Legislature could hardly have intended that mere 'wilful exposure'

not also indecent or mere 'in decent exposure' not also wilful should be an offence.

4. The woman had apparently either deliberately left the barracks improperly clothed or much more probably, because she had no business there, had been compelled to escape in an improperly clothed condition. Even in the latter case, the exposure would be therefore in law 'wilful.'

5. But, of course, the facts are to be determined on the evidence.

6. Let the papers be returned for disposal of the case in accordance with the above observations.

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