

Lachmi Narain Vs. Emperor

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Court : Allahabad

Decided On : Apr-28-1917

Reported in : AIR1918All369(1); 42Ind.Cas.913

Judge : Walsh, J.

Appellant : Lachmi Narain

Respondent : Emperor

Judgement :

1. This is a very small matter. The case has not been satisfactorily tried, and strictly speaking it ought to be sent back to be tried again. The Magistrate begins by stating that the offence charged is 'not taking proper care of his dog.' That is not the offence nor is it an offence known to law. The offence with which the accused was charged was knowingly or negligently omitting to take such order with his dog as was sufficient to guard against any probable danger of grievous hurt from such animal.' In the case of a ferocious animal it is quite clear that to allow it liberty is in itself likely to cause danger to human beings. But in the case of a dog it must be shown that it is likely to bite human beings. There is no presumption in the case of an ordinary domestic dog that it is likely to bite human beings. There are many dogs who are likely and there are some dogs who are actually trained to do so. But it must be proved against the owner of the dog that this particular dog had a tendency or character of biting human beings. There was direct evidence against this dog having previously this character and that complaint^ had been made to

the accused against its conduct. But the Magistrate came to no conclusion at all upon that direct evidence, and indeed he does not seem to have addressed himself to the separate and independent point whether the dog had the character of biting human beings. He says, it is admitted that the accused had a dog about a year ago which bit three women and for which the accused had to pay.' He does not even and that the admission was made with reference to this dog in question and in fact there is no admission of any kind on the evidence Therefore the case ought to go back for the facts to be found upon the evidence with reference to the charge. But it seems to me to be a trivial case, which does not merit the time and money already spent on it to be spent all over again. The result of this unfortunate bite was that according to the medical evidence the complainant had five superficial pea-sized punctures in close proximity at the back of his left leg. They appear to have caused no other consequences. Of course a dog-bite may be a serious matter and may be a very serious matter indeed. But that is not a reason for treating every dog-bite as a serious thing in itself. The complainant said nothing at all about his physical suffering. I think the Assistant Government Advocate is probably right that it was merely mental suffering. The accused, has been fined Rs. 40 of which Rs. 25 have been awarded to the complainant for this mental suffering. I think the amount is excessive. With the consent of the accused, who in law has the right to have the case sent back for proper trial, I reduce the fine to Rs. 5 and I award Rs. 3 of this to the complainant: Any sum, if realised in excess of Rs. 5, must be refunded to the accused.