

Lallu Ram Vs. Emperor

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Court : Allahabad

Decided On : Jul-19-1923

Reported in : AIR1924All194; 77Ind.Cas.188

Judge : Walsh, J.

Appellant : Lallu Ram

Respondent : Emperor

Judgement :

Walsh, J.

1. This case has been referred to the High Court really for Provision of the question whether is necessary, in order to establish a charge of committing a nuisance in a public place to the annoyance of residents or passengers in the locality, to prove that somebody was annoyed. The Act certainly says so, and I do not see how anybody can seriously doubt it. But annoyance to one person is sufficient and even annoyance itself is a question of degree, and if a public servant, like a Municipal employee whose duty it is to look after the cleanliness of the streets sees anybody easing himself in a public place or street he is not unlikely to be annoyed. When you come to think of it, it is his business to be annoyed. He ought to be annoyed. A person trying to keep the streets clean who sees anybody easing himself, would be very wrong if he was not annoyed. In fact his employers would have every right to be annoyed with him, if he was not and,

therefore, if he reports it in his official capacity and gives evidence of the act, it is a reasonable inference that he was annoyed. Whether the jamadar in this particular instance attempted to define and put into precise language the degree of annoyance which he felt, does not appear, because the case was summarily tried. But it is reasonable to suppose that he was very much annoyed, and that if he was pressed on the question he would have said so. It turns out that between the offender and the jamadar there has been a terrible feud about the refusal to sell cloth on credit, and the jamadar according to the defence, harboured feelings of more indignation towards the offender. When one comes to picture the scene, if it is correct that in the course of his patrolling the streets in the interests of health and cleanliness this jamadar, armed with the authority of the individual, against whom he had this grudge, committing an act of nature in one of the very places which were of public interest which the jamadar had to look after one can imagine that his annoyance was very great indeed. It has not been found to be fictitious annoyance or mala fide, but the Magistrate has found that the case has been proved. I must assume that he meant what he said and that he was satisfied that the jamadar was sufficiently annoyed. I agree with the Sessions Judge that the matter is of importance, but it seems to me to have been hardly worth while referring it to the High Court, because, although every one must agree with the Sessions Judge that an ordinary person would consider the act objectionable, it is impossible to say, when the section requires the act to be one done to the annoyance of the public, that annoyance must not be proved. But it is sufficient if one person is annoyed, and as the act complained of can hardly be proved except by some person who comes forward to complain, the annoyance is almost necessarily involved in the complaint. It, therefore, comes to this, that all that is required is that the act was done in such a way as to annoy a person who complained of it. The proceeding in the Court below before the Sessions Judge was revision, and I am not at liberty to consider any point really except that referred to me. Mr. Kamlakant Verma has also contended that a drain by the side of the road does not come within the description contained in the Act of an open place. That is a question of fact. It was not raised in the Court below, and presumably a drain by the side of the road is not only in an open place but in a thoroughfare, which is sufficient. It would appear that there must have been an

open place to enable the jamadar to see the offence. I merely, therefore, hold that the conviction was one according to law, and I direct the record to be returned to the Sessions Judge.

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