

Ram Din Vs. Emperor

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Court : Allahabad

Decided On : Oct-09-1923

Reported in : AIR1924All437; 77Ind.Cas.815

Judge : Sulaiman, J.

Appellant : Ram Din

Respondent : Emperor

Judgement :

Sulaiman, J.

1. This reference must be accepted. The accused has been convicted under Section 9(a) and (6) of Act XII of 1882 (Salt Act) for having manufactured saltpetre without a license.

2. He originally had license in the year 1922, which expired on the 31st of July 1922. He did not take out any fresh license until the 24th of April 1923. On that date the Salt Inspector visited a certain building, which is said to have been the place of the former factory of the applicant, and found a woman at work there. It is said that as soon as she saw him she threw into a pan some stuff which she was manufacturing. A quantity of this, however, was taken out of the pan by the Inspector, and it is said to have been indelible salt. On these facts the accused was convicted under the Salt Act.

3. There are several difficulties in the way of the prosecution. The first point to note is, which by the way has not been noted by the learned Sessions Judge, that at least on the very day, the 24th of April 1923, when according to the Inspector salt manufacture was detected in the accused's building, he did obtain a license with effect from that date. The second thin is that there is no evidence on the record to show who this woman was, and there is no evidence to support the suggestion of the Inspector that she was the wife of the accused. Next, there is no satisfactory evidence to show that the stuff taken possession of by the Inspector was really salt.

4. It also appears that the search of the premises was irregular. Under Section 18 of the Salt Act whenever any Salt Revenue Officer has reason to believe that salt or saltpetre is being unlawfully manufactured, refined or stored in an unlicensed place, he shall first record in writing the name, residence and calling of the informant, then the locality and description of the house where the manufacture is going on, the name of the person by or for whom the salt or saltpetre is so manufactured, refined or restored, and the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured; and may then summon an officer in charge of the Police Station of the circle to attend him, and may then, during the day, in the presence or the Police Officer enter and search any house in which there is reason to believe that salt or saltpetre was being manufactured, and may carry away all the salt or saltpetre so manufactured. If the place so entered is an apartment in the occupancy of woman, who does not appear in public the officer shall be guided by the rules presented for such cases in the Criminal Procedure Code. But before conducting a search tinder that section he should call upon two or more respectable inhabitants of the locality in which the house is situate to attend and witness the search, arid the search should be ma de in the presence of such inhabitants.

5. It is not pretended that these formalities were complied with. No record was made of the nature of the information, there was no summoning of respectable neighbours as search witnesses, or the obtaining of a Police Officer to attend. It was, however, urged on behalf of the prosecution that under Section 15 of the Act,

the Salt Revenue Officer was entitled to search the house In my opinion that section has no application as it is confined to the search of any place in which any article is manufactured or refined under the license of any rule made under the Act. If salt or saltpetre was being unlawfully manufactured, refined or stored in an unlicensed place, it would be Section 18, and not Section 15, which would apply. No search witness was examined on behalf of the prosecution. The Salt Inspector has stated that Patwari was present. The latter was examined on behalf of the defence and his evidence totally disproved the case for the prosecution.

6. In view of all these circumstances I set aside the conviction of the accused, acquit him of the offence charged, and direct that the fine if paid be refunded.

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