

Samuel Tippee Vs. the State

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Court : Orissa

Decided On : Aug-17-1962

Reported in : AIR1963Ori20; 28(1962)CLT508; 1963CriLJ211

Judge : R.L. Narasimham, C.J.

Acts : Railways Act, 1890 - Sections 3(4)

Appeal No. : Criminal Revn. No. 36 of 1962

Appellant : Samuel Tippee

Respondent : The State

Advocate for Def. : Y.S.N. Murty, Standing Counsel

Advocate for Pet/Ap. : A. Das and ;L. Rath, Advs.

Disposition : Petition dismissed

Judgement :

ORDER

R.L. Narasimham, C.J.

1. This is a revision against the conviction of the petitioner under Section 120 of the Indian Railways Act and the sentence of fine of Rs. 36/- passed on him by a First Class Magistrate of Uditnagar.

2. The allegations against the petitioner which have been believed by the learned Magistrate are that on or before the 13th July, 1960 when the Railway Overseer, (P. W. 1) was engaged in preparing a lay out for a block of railway buildings the petitioner came there and asked him to stop work and also abused him filthily. The Overseer, very properly, did not proceed further but reported the matter to the Police. Apparently, there was some dispute as to whether the land belonged to the petitioner or not. Here we are not concerned with the jurisdiction or otherwise of the action of the petitioner on that day. It was further alleged by the prosecution that not content with the aforesaid incident the petitioner a few days later on 19-7-60 at about 9 A.M. went to the office of the Overseer at Rourkela, stood in front of it and filthily abused the Overseer and also threatened him saying that he would see how any construction would take place on his land. The Overseer then reported the matter to the Police on the basis of which the petitioner was sent up for trial, convicted and sentenced as stated above.

3. Apart from the Overseer (P. W. 1) the principal witness for the prosecution in this case are (1) a Railway Choukidar, in the accounts Office named S. Chakravarty (P. W. 2) and (ii) an officiating Ticket Collector P. W. 3. These two witnesses have also supported the Overseer by saying that at about 9 a.m. on 10-7-1960 the petitioner stood in front of the Overseers Office, abused him filthily and threatened to assault him. The exact place where the petitioner stood while abusing the Overseer was also made clear by P. W. 2 during his statement in examination in chief to the effect that this took place in front of the office which is within the limits of railway premises. It does not appear that this portion of his evidence was challenged in cross examination.

4. Mr. Das for the petitioner raised two contentions :

Firstly he urged that the incident did not take place with the 'Railway' as defined in Section 3 (4) or the Indian Railways Act and consequently Section 120 of the Act was not applicable. Secondly he contended that the evidence was not sufficient to show that the petitioner used obscene or abusive language.

In my opinion neither of these contentions can prevail.

5. The definition of the expression 'Railway' has been purposely made very wide in Sub-clauses (a) and (b) of Clause 4 of section 3 of the Railways Act and any land within the limits of the boundary marks of a Railway and any office or other work constructed for the purpose of or in connection with the railway is also included in the wide definition of the word 'Railway'. Here, if, P. W. 2 is to be believed the petitioner stood right in front of the Overseers Office within the limits of the Railway premises. The aforesaid definition would therefore apply. Mr. Das however invited my attention to two decisions reported in *Ledai v. Emperor* AIR 1927 All 646 and *Margam Aiyar v. S. J. Mercer*, 15 Cri. L. J. 225: (AIR 1914 Mad 196) where it was held that the railway staff quarters may not come within the definition of 'railway'. Railway staff quarters are somewhat different from the offices of the overseer and other persons engaged in construction work on the railway and here we are concerned with such offices only. In any case when P. W, 2 stated in examination in chief that the incident took place within the limits of the railway premises, if the petitioner wanted to show that the said railway premises were within the area of railway staff quarters, he should have clarified the position in cross examination. On the other hand, this portion of the evidence was not challenged at ail. I have therefore no hesitation in holding that the incident took place with the 'Railway' as defined in the Railways Act.

6. As regards the second contention also, though the Overseer, P. W. 1 perhaps out of natural shyness did not fully disclose the abusive words that were actually aimed at him, the petitioner himself in his cross-examination of P. W. 2 brought out the actual words used by him, which are undoubtedly abusive and filthy. P. W. 3 also has supported him on this point, and hence it must be held that the petitioner is guilty of the offence under Section 120 of the Railways Act.

The sentence also is not severe.

The Revision petition is dismissed.