

Chhoga and ors. Vs. Rex

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SooperKanoon Citation : sooperkanoon.com/750847

Court : Rajasthan

Decided On : Aug-09-1949

Reported in : 1950CriLJ877

Judge : Atma Charan, J.C.

Appellant : Chhoga and ors.

Respondent : Rex

Judgement :

ORDER

Atma Charan, J.C.

1. This is an application in revision by Chhoga and three ofcher3 from the order of Mr. D. N. Roy, Sessions Judge, Ajmer-Marwara, Ajmer, dated 3rd June 1949, in appeal maintain, ing their conviction under Section 19, Punjab Public Safety Act (n [2] of 1947) as made applicable to the Province of Ajmer-Merwara and reducing their sentences each to three months' rigorous imprisonment and a fine of Bs, 200.

2. The case of the prosecution was that the applicants had been served by the District Magistrate with written notices Under section i, Punjab Public Safety Act prohibiting them from attending or taking part in any labour meeting or in any movement subversive of law and order and that they inspite thereof attended a labour meeting and also joined a procession, wherein slogans with a view to creating public disturbance and inciting labourers to action were shouted. The two

Courts below relied on the prosecution version of the story, and held that the applicants had not only attended the labour meeting but had also joined a procession, which was subversive of law and order.

3. The main contention of the counsel for the applicants before the Court is that there is nothing in the record of the trial Court to justify the inference that the applicants had joined a procession, which was subversive of law and order, and had also attended a labour meeting. The prosecution have produced no less than five witnesses in support of their version of the story. The sum total of their evidence clearly goes to show that the applicants were in the procession, wherein slogans 'Comrade Bhardwaj ka khoon ka badla khoon se lenge ; police raj khatam karo, sarmayadarika nashbo.laljhandaft zindabad-duniya ko mazdooron ek ho', were shouted. The evidence is that of two independent witnesses and three police witnesses. The applicants in defence have produced two witnesses each to show that they were elsewhere at the time in question. The evidence is that of no independent witnesses. No plea of alibi to the effect had been raised by the applicants, when their statements were recorded by the trial Court. The two Courts below, in the circumstances, have rightly discarded the evidence in defence and have rightly relied on the prosecution version of the story.

4. The applicants admittedly had been directed neither to attend nor to take part in any movement subversive of law and order Under Section 4, Punjab Public Safety Act. They in spite of this joined a procession, wherein slogans, with a view to creating public disturbance and inciting labourers to action were shouted. Their action in so disobeying to comply with the order thus clearly comes within the purview of Section 19, Punjab Public Safety Act. They have accordingly been rightly convicted Under Section 19 of the Act.

5. Even if it be taken for granted just for arguments' sake that the applicants did attend or take part in the meeting, it is doubtful if it was a 'labour meeting.' A 'labour meeting as mentioned in the order, in my opinion, clearly meant a meeting relating to the problems of labour did not mean a meeting relating to the problems other than those of labour. There is hardly anything on the record of the trial Court to justify the inference that the meeting was held in regard to the problems of

labour. No doubt, S. I. Mangal Singh in his evidence says that Kesri Mai in the meeting had demanded the leaders under arrest to be released. However, no independent evidence in corroboration thereof is forthcoming on behalf of the prosecution. I would, in the circumstances, prefer to give the applicants the benefit of doubt in regard to their having attended or taken part in the labour meeting.

6. The applicants stand sentenced each to undergo three months' rigorous imprisonment and a fine of Rs. 200. Considering the nature of the slogans shouted in the procession, the sentences of imprisonment do not at all seem to be excessive. The applicants, however, belong to the labour class and live hand to mouth. It would, in the circumstances, meet the ends of justice if the sentences of fine are set aside.

7. The application in revision accordingly is partly allowed, the conviction and the sentences of imprisonment of the applicants are maintained, and the sentences of fine are set aside; the application in revision otherwise is dismissed.

8. The applicants are on bail, and be taken in custody forthwith by the trial Court and sent to jail to undergo the remaining portion of their sentences of imprisonment,