

Jagat Singh Vs. Rex

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Court : Rajasthan

Decided On : Aug-18-1949

Reported in : 1950CriLJ1060

Judge : Atma Charan, J.C.

Appellant : Jagat Singh

Respondent : Rex

Judgement :

ORDER

Atma Charan, J.C.

1. These are two connected applications in revision, being Criminal Revns. nos. 6 and 28 of 1949, by Mirehu Mai and Jagat Singh respectively from the order of Mr. 8. A. Eauf, 'Magistrate 1st Class?', dated 20th August 1949, convicting them Under Section 8 of Central Act xxiv [24] of 1346 and sentencing them each to pay a fine of Ha. 50 or in default to undergo three weeks' rigorous imprisonment and further directing one third of their foodgrains to be forfeited ; to the Grown. The applicants filed applications In revision before the Sessions Judge, and the applications were rejected. They have now come up in revision before the Court.

2. The case of the prosecution was that the applicants attempted to export from the City of Ajmer Beawar of controlled foodgrains without a permit on the night between 2nd and 3rd April 1948 and were caught hold of at the Ajmer.Beawar

Road Octroi Outpost. The applicants in their statements before the trial Court admitted the allegations of the prosecution and pleaded 'guilty'. The contention of the counsel for the applicants before the Court is that the evidence on the record of the trial Court does not justify the inference that the Octroi-Outpost is at the border of the City and that, as such, the act of the /applicants does not come within the purview of Section 8 of Central Act XXIV [24] of 1946. The decision in the matter really rests on the facts as to where exactly the Octroi Outpost is situated, The applicants in their statements before the trial Court specifically admitted the fact that they were taking the controlled foodgrains from the city of Ajmer to Beawar. If the applicants wanted to contest the case on the ground that the Octroi-Outpost is not situated at the border of the City, then they should have stated so and done so. The prosecution in that case could have led the remaining evidence to the effect in the matter Under Section 256, Criminal P.C. The applicants cannot now be allowed to go back on the position taken up by them before the trial Court.

3. Chief Commissioner's Notification No. R-69, dated 24th June 1946, was published in the Central Gazette on 28th September 1946, and came into force with effect from that date. It prohibited the movement of certain foodgrains from the City of Ajmer except under a due permit, The alleged offence is said to have been committed on the Bight between Bed and 3rd April 1948. The contention of the counsel for the applicants before the courts is that the Chief Commissioner had no powers to have issued such order Under Section 31 (2), Defence of India Rules as the Central Legislature could have enacted no legislation in the matter after 31st March 1946. The contention appears to be that after the Proclamation of Emergency had come to an end the Central Legislature could have enacted no legislation in regard to a Provincial matter. The counsel for the applicants is obviously wrong in this for the India (Central Government and Legislature) Act, 1946, had already come into force from 1st April 1946. This Act had partly repealed the Government of India Act, 1935, and allowed the Central Government to enact legislation in regard to certain Provincial matters as well. Further, Ajmer-Merwara is not a Governor's Province, and the provisions of Section 100(3), Government of India Act, 1935, do not apply to it. The Central Legislature has certainly powers to make laws with respect to matters enumerated in the Provincial Legislative List for Ajmer-Merwara, which is a Chief Commissioner's

Province Under Section 100(4), Government of India Act, 1935.

4. Even otherwise, the Chief Commissioner did not enact any legislation. He just passed an executive order that certain foodgrains would not be exported outside the City of Ajmer without a due permit. The Defence of India Act and the Rules remained in force till the expiration of a period of six months after the Proclamation of Emergency had ceased to operate i. e., till 31st September 1946, Ordinance XVII [18] of 1946 came into force from 1st October 1946 and directed continuance in force certain orders passed under the Defence of India Act and the Rules. Ordinance XVIII [18] of 1946 was later repealed and replaced by Central Act, XXIV [24] of 1946. The Ordinance and the Act had both been passed under Section 2, India (Central Government and Legislature) Act, 1946. Chief Commissioner's Notification No, R-G9 dated 24th September 1946 thus was in full force when the alleged contravention is said to have been committed. The Court below, in the circumstances, was perfectly justified in convicting the applicants Under Section 8 of Central Act XXIV [24] of 1946.

5. The applicants have been sentenced each to pay a fine of Rs. 50 or in default to undergo three weeks' rigorous imprisonment, One-third of their foodgrains has further been directed to be forfeited to the Crown. The sentences are certainly by no means excessive and, if at all, err on the side of leniency, The two applications in revision are accordingly dismissed.

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