

Badrinaraln and ors. Vs. State

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Court : Rajasthan

Decided On : Jan-31-1956

Reported in : AIR1957Raj64; 1957CriLJ391

Judge : Ranawat and; Sharma, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 283

Appeal No. : Criminal Ref. No. 95 of 1955

Appellant : Badrinaraln and ors.

Respondent : State

Advocate for Def. : C.B. Bhargava, Adv.

Advocate for Pet/Ap. : C.L. Agarwal, Adv.

Disposition : Reference accepted

Judgement :

Sharma, J.

1. This is a reference by the Additional Sessions Judge, Jaipur City dated 10th October, 1955 recommending that the convictions of the 14 accused (hereinafter to be referred to as the applicants) be set aside.

2. The case against the applicants was that on the 17th of January, 1955 at about 8-30 P. M., a crowd including the applicants collected in the Johri Bazar on the road near the turning of Rasta Ghiwalan and Satta by American Features was being done there. It was complained that the applicants along with other persons of the crowd blocked the traffic and caused obstruction and annoyance to the public passing by the road.

3. The applicants were challenged under Sections 283 and 290 of the Indian Penal Code and Section 13 of the Public Gambling Act. The learned Trial Magistrate acquitted all the accused of offences Under Section 290 I. P. C. and Section 13 of the Public Gambling Act but convicted them Under Section 283 of the Indian Penal Code and sentenced them to a fine of Rs. 10/- each.

4. In his order of reference, the learned Additional Sessions Judge says that Section 283 of the Indian Penal Code did not apply to the facts of the present case as the applicants were not causing any danger, obstruction or injury to any person by doing any act or by omitting to take order with any property in their possession or in their charge.

5. The explanation of the Trial Magistrate was called for Under Section 80 of the General Rules (Criminal) of this Court. The learned Magistrate says that the words 'with any property' Under Section 283 are not to be read with the word 'act' and they are to be read only with the phrase 'by omitting to take order'.

6. This case came up before a single Judge of this Court and he has referred it to a Division Bench.

7. We have heard the learned counsel for the applicants and have gone through the record of the case. We do not agree with the learned Additional Sessions Judge that the words 'with any property in his possession or under his charge' are to be read with the words 'any act' also in Section 283 of the Indian Penal Code.

There is a comma after the words 'any act' which would have been unnecessary if the words 'with any property in his possession or under his charge' were to be read with the words 'any act' as well as with the words 'by omitting to take order'. It

is true that while interpreting the Acts of the British Parliament punctuations are not given any importance but it is due to the fact that before the year 1849 no punctuation normally appeared in the Acts on the role of Parliament in England.

Although since 1849 punctuation has been inserted yet inspite of it a view has been taken by some of the judges that the title of the Act, the marginal notes and the punctuation do not form part of the Act but are only temperance exposition (vide page 24, Interpretation of Statutes and General Clauses Acts of Central and States 1954 Edition by N. S. Bindra).

In India, however, punctuation appears in the bills and the Legislature has to take stock not only of the language of the bills but also of the punctuations. It has, therefore, been held that punctuations also be taken into account in interpreting the provisions of an Act of an Indian Legislature. In the case of Secretary of state v. Kalekhan, ILR 37 Mad 113 at p. 115 : (AIR 1914 Mad 502 at p. 503) (A), Sundara Ayyar J. observed as follows :

'There is no doubt authority in English cases for this proposition (Punctuation should not be taken note of in considering the Statute) but no Indian case has been cited to us, and it may be permissible to express a doubt whether the consideration which induced Judges in England to lay down such a rule would be equally applicable in the construction of statutes in this country.'

(NOTE: The words within brackets are ours).'

In the case of Blanche Somerset Taylor v. Charles, George Bleach, ILR 39 Bom 182 : (AIR 1915 Bom 50) (B), while interpreting the 3rd clause of Section 37 of the Divorce Act, IV of 1869, Scott, C. J. observed as follows :

'I can see no reason why the punctuation of the editions of the Act issued by the Government of India should be disregarded for so far so I am aware there is not in India any unpunctuated original Statute Book.'

8. In a Full Bench decision of 7 Judges In Isap Ahmed v. Abrahamji Ahmadiji, ILR 41 Bom 588 : (AIR 1917 Bom 254) (C), 'a hyphen was taken notice of'. In the case of Board of Revenue, Madras v. Ramanathan Chettiar, AIR 1924 Mad 455 (D), it

was observed by Schwabe C. J.:

'The statute has been punctuated, and we must take the punctuation marks, as part of the statute.'

In re, Krishnaji Gopal, AIR 1948 Bom 360 (E), the Bombay High Court made full use of the comma after the word 'conditions' and of the omission thereof after the word 'circumstances' In the expression 'shall in such circumstances and under such conditions, if any, as may be specified in the orderenacted in' Section 21 of Bombay Public Security Measures Act, 1947.

9. There has been a decision of the Supreme Court in the case of Gopalan v. State of Madras, AIR 1950 SC 27 (F), in which his Lordship Kania C. J. while interpreting Article 22(7) of the Constitution observed as follows:

'The use of the word 'which' twice in the first part of the sub-clause, read with the comma put after each, shows that the Legislature wanted these to be read as disjunctive and not conjunctive.'

10. Thus so far as the Acts of the Indian Legislature & the Constitution of India are concerned, it has been held that in India, the punctuations in the statutes should not be ignored. We cannot, therefore, ignore the comma after the words 'by doing any act' and giving it significance, we hold that the words 'or by omitting to take order with any property in his possession or under his charge' are disjunctive and not conjunctive to 'by doing any act'.

If the words 'with any property in his possession or under his charge' were intended by the Legislature to qualify the word 'act' also, it would not have been necessary to add the words 'or by omitting to take order' as under Section 32 of the Indian Penal Code, the words which refer to acts done' also extend to 'illegal omission'. The words 'by doing any act with any property in his possession or under his charge' would, therefore, have included illegal omission to take order with any property in his possession or under his charge.

As it was the intention of the Legislature to restrict the 'omission' only to any property in the possession or under the charge of the accused, the expression 'or

by omitting to take order with any property in his possession or under his charge' had to be added.

11. This being our view, we come to the question whether the accused in the present case can be said to have committed an offence under Section 283 I. P. C. by simply standing on the road in Johari Bazaar. We do not agree with the learned Trial Magistrate that simply on account of their standing on the road, the accused committed the said offence. There is nothing to show that all the accused had gone there together.

The only evidence is that they were found standing on the road which blocked or obstructed the traffic. Looking from the individual point of view of each of the accused, it cannot be said that the standing of which of them caused obstruction to traffic. It may be that if only some of them were there, there might have been no obstruction. We cannot say which of the accused came and stood first and which came afterwards.

There is nothing to show that they were given any warning to disperse but they did not heed the warning and remained standing. We cannot read the word 'act' under Section 283, in such a wide sense, that mere standing on the road without anything more is such an act as is punishable under Section 283, I. P. C. If that were so then anybody out of a crowd witnessing a fair or procession standing on the road might be hauled up under this Section.

In the case of Shiv Kumar Singh v The State, Criminal Ref, No. 76 of 1954, decided on 14-4-1954 by one of us (G), the charge against the accused was that they marched in a procession with black; flags shouting slogans and they took their positions in front of Siredeori Gate which obstructed the Ministers and the members of the Legislative Assembly from going to attend a session of the Assembly, and it was held that only these facts were not sufficient to bring home an offence Under Section 383, I. P. C. against the accused.

In the present case the only facts proved against the accused are that they were standing on the road doing some business at a shop. This alone was not sufficient to bring home an offence under Section 283 I. P. C. against the accused.

12. The learned Deputy Government Advocate himself conceded that in the circumstances of the case, an offence Under Section 283 I. P. C. was not made out against any of the accused.

13. We allow the reference, set aside the conviction and sentence of Badrinarain, son of Surajmal, Lalchand son of Ramchandra, Phoolchand sonof Sukhram, Premchand son of Bhooramal, Murlidhar son of Gopilal, Moharilal son of Makhanlal, Radheyshyam son of Naraindass, Ramkanwar sonof Gordhan, Phoolchand son of Badrinarain Nathuram son of Badrinarain, Ladhuram son of Gopinath, Munnalal son of Kesarlal, Badrinarain sonof Gapoolal and Chothmal son of Manolal and acquit them. Fines, if paid, shall be refunded to them.

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