

Amba Lal Vs. the State

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Court : Rajasthan

Decided On : Feb-07-1950

Reported in : 1950CriLJ1108

Judge : Atma Charan, J.C.

Appellant : Amba Lal

Respondent : The State

Judgement :

ORDER

Atma Charan, J.C.

1. Heard the parties.

2. The accused applicant stands convicted Under Section 19(f), Arms Act and sentenced to pay a fine of Es. 800. The case of the prosecution was that he had 'in his possession thirty 12-bore and five .38-bore unlicensed cartridges. The main contention of the accused-applicant before the Court is that the prosecution have altogether failed to show that the alleged recovery had .been made from his possession. The contention, in my opinion, is not altogether without weight and is supported to a considerable extent by the very evidence produced on behalf of the prosecution before the trial Court.

3. The house from wherein the recovery is said to have been made, is admittedly occupied by the accused-applicant and his two brothers. They live altogether in separate apartments, and are also separate in mess and business. The cartridges in question are said to have been recovered from a cup. board in a small room from wherein the gun-licenses of the three brothers are also said to have been found. The very fact that the cartridges in question and the three gun-licenses are said to have been recovered from one and the same place in no way goes to show that that place was in the exclusive possession of the accused applicant. The three brothers were at liberty to have kept their licenses as well as their ammunition at one and the same place. No offence whatsoever accordingly is made out in regard to the alleged recovery of thirty 12-bore cartridges. The entire stock of 12-bore cartridges said to have been recovered is covered under the three licenses.

4. The question now is whether five 38-bore cartridges were recovered from the possession of the accused applicant or not. The prosecution then is inconsistent as to from what place exactly the recovery in question had been made. Khyali Bam (P.W. 2) says that the recovery had been made from the 'chowk' of the sitting-room. This inconsistency might be due to a lapse of memory on the part of the witness, but the benefit thereof could not be allowed to be given to the prosecution for which no one other than the prosecution themselves are to blame. The occurrence in question is said to be dated 17th August 1915 while the prosecution was not launched till 7th August 1917. The evidence in the case then began before the trial Court on 7th February 1949.

5. The accused-applicant and his two brothers obviously are respectable persons, for all three of them possess a separate arms-license for a gun. It does not stand to reason that any one of them would have ordinarily thought of keeping five 38-bore cartridges for no rhyme or reason.

6. The application in revision accordingly is allowed, the conviction and the sentence of the accused-applicant are set aside and he is acquitted; the fine, if already realized, be refunded to the accused-applicant.

