

Manmal Saraogi Vs. the State

Manmal Saraogi Vs. the State

SooperKanoon Citation : sooperkanoon.com/755318

Court : Rajasthan

Decided On : Mar-14-1952

Reported in : 1953CriLJ48

Judge : Atma Charan, C.J.

Appellant : Manmal Saraogi

Respondent : The State

Judgement :

Atma Charan, C.J.

1. Heard the parties.
2. The accused-applicant stands convicted under Sections 3 and 4 of the Public Gambling Act and sentenced in the aggregate to pay a fine of Rs. 200/-.
3. The only point pressed at the time of arguments in revision is that as the trial Court itself had issued the search warrant the accused-applicant has been materially prejudiced and, as such, he should be acquitted. The counsel for the accused-applicant in this connection has drawn my attention to the rulings as cited in *Rajaram v. Emperor* AIR 1924 Lah 247 and *Syam Behari v. Emperor* AIR 1934 All 987 (2). The Government Advocate, on the other hand, relies on the rulings as cited in 1935 AMLJ 59 and *Nemichand v. Crown* 1938 AMLJ 40. The later set of the rulings clearly lays down that in such cases a Court would not be justified in

raising presumptions as could have been raised in case a valid warrant had been issued. On the evidence of the parties otherwise the trial Court as well as the appellate Court have clearly come to the findings that the shop of the accused-applicant was a 'common gaming-house' and that he received bets. The accused-applicant, in the circumstances, has rightly been convicted under Sections 3 and 4 of the Public Gambling Act.

4. The accused-applicant has been sentenced in the aggregate to pay a fine of Rs. 200. The sentence appears to err on the side of severity and, in my opinion, it would meet the ends of justice if the sentences in the aggregate are reduced only to a fine of Rs. 50/- or in default of such to one month's simple imprisonment.

5. The application in revision accordingly is partly allowed, the conviction of the accused-applicant is maintained and his sentences in the aggregate are reduced only to a fine of Rs. 50 or in default of such one month's S.I.: the application in revision otherwise is dismissed.