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Nanu Ram Vs. State

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Court : Rajasthan

Decided On : Mar-31-1952

Reported in : 1952CriLJ1372

Judge : Atma Charan, J.C.

Appellant : Nanu Ram

Respondent : State

Judgement :
ORDER

Atma Charan, J.C.

1. Heard the parties.

2. The accused-applicant stands convicted Under Section 7 of Central Act XXIV of 1946 and sentenced to undergo imprisonment till the rising of the Court and to pay a fine of Rs. 600/- or in default of such, to further undergo four months' R.I.

3. It is alleged that the accused-applicant contravened the provisions of Clause 3(a) of Chief Commissioner's Notification No. R/7, dated 7.12.1950, which runs as below:

No person shall, on occasion of marriages or funerals make or prepare or cause to be made or prepared or possess food to feed, treat or distribute amongst more

than twenty-four persons excluding the members of the family of the host.

4. The F.I.R. in the case was lodged by the P.C. Girdhari Lal, but it has not been produced by the prosecution on the pretext that it was not taken down as a F.I.R. but was taken down as a report in the General Diary. This was no ground on which the report which, in fact, really amounted to a F.I.R. should have been suppressed by the prosecution. The importance of a F.I.R. lies only in the fact as to what was the initial version of the case as reported to the Police.

5. The prosecution then have produced the investigation report in full as a F.I.R. as prepared subsequently by S.I. Deoki Nandan. It is obvious that the prosecution as well as the trial court have altogether failed to appreciate as to after all what is a F.I.R. and as to what are the provisions of the law as laid down Under Section 162. Cr.P.C.

6. The most important witness in the case was the son of the chowkidar but again the prosecution for reasons best known to themselves have failed to produce him as a witness before the trial court. No explanation whatsoever is forthcoming as to why he was not produced as a witness before the trial court. In the circumstances, it is difficult for me to hold as to what was the prosecution version of the story initially and as to how it was later developed, if so, by the prosecution. In the circumstances, there is no other option but to give the benefit of the doubt to the accused-applicant and acquit him.

7. The application in revision accordingly is allowed, the conviction and the sentences of imprisonment and fine are set aside and the accused-applicant is acquitted: the articles confiscated or the sale proceeds thereof, if already sold, be handed over to the accused-applicant.

8. The Magistrate would do well if he revised his knowledge of Chapter XXV, Cr.P.C., and also the provisions of the law as laid down under Article 343 (sic) of the Constitution of India. Let a copy of the order be forwarded separately by name to the District Magistrate.

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