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Bodu Lal Vs. State

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SooperKanoon Citation : sooperkanoon.com/755788

Court : Rajasthan

Decided On : Mar-21-1952

Reported in : 1952CriLJ1386

Judge : Atma Charan, J.C.

Appellant : Bodu Lal

Respondent : State

Judgement :
ORDER

Atma Charan, J.C.

1. Heard the parties.

2. The accused-applicant stands convicted Under Section 9 of Central Act I of 1878 and sentenced to undergo three months' R.I. and to pay a fine of Rs. 200/- or in default of such, to undergo further R.I. for one month.

3. The first point pressed in this revision on behalf of the accused-applicant is that the prosecution has failed to prove that the article recovered was 'opium' within the meaning of Section 3 of the Act. The article recovered has been seen by me, and is certainly nothing else but spontaneously coagulated juice of capsules of the poppy. In State v. Kaptan Singh 0043/1952 : AIR1952 All118 , it has been observed as below:

Opium in the form of coagulated juice of poppy is so well known in this country being widely used for medicinal & other purposes that anyone can identify it and it is unnecessary to call in an expert to establish its identity. If an Excise Inspector says that certain article is crude opium his testimony cannot be looked upon as merely an opinion of an expert and is entitled to weight as evidence even if no reasons are given for the opinion.

4. It has then been argued on behalf of the accused-applicant that the evidence on the record of the trial court does not justify the inference that the opium in question was recovered from the possession of the accused-applicant. The two courts below have clearly come to the concurrent findings on independent evidence and otherwise that the opium in question was recovered from the possession of the accused-applicant. This is a finding of fact, and could not ordinarily be interfered with by me on the revisional side.

5. The accused-applicant has been sentenced to undergo three months' R.I. and to pay a fine of Rs. 200/- or in default of such, to undergo further R.I. for one month. The sentences, in view of the large quantity of the opium recovered, certainly do not appear to err on the side of severity.

6. The application in revision accordingly is dismissed the accused-applicant is on bail, and he should be taken in custody forthwith and made to undergo the unexpired portion of his sentence or sentences under intimation to the Court.

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