

Queen-empress Vs. Sommanna

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Court : Chennai

Decided On : Jan-28-1892

Reported in : (1892)ILR15Mad221

Judge : Wilkinson and ;Subrahmanya Ayyar, JJ.

Appellant : Queen-empress

Respondent : Sommanna

Judgement :

1. The petitioner was convicted by the Second Class Magistrate of Pullampet under Section 183, Indian Penal Code, of resistance to the taking of property by the lawful authority of a public servant and sentenced to two months' rigorous imprisonment and a fine of Rs. 200. On appeal the Sub Divisional Magistrate confirmed the sentence, but altered the finding to one of an offence under Section 186, Indian Penal Code, and the only question now is whether the ingredients of the offence have been made out. On behalf of the petitioner it is urged that there was nothing more on his part than noncompliance with an order which he was not bound to obey. On the part of the Crown it is argued that there was active obstruction and a threatened breach of the peace. There is nothing in the judgment of the Sub-Divisional Magistrate to lead us to think that it was the petitioner who gathered the crowd, nor on referring to the evidence of the Commissioner do we think that it can be held that it was through the instrumentality of the prisoner that the crowd came together. It would seem to

have been a very orderly crowd which collected upon hearing that an inventory was to be made of all the goods and chattels in the house of the principal merchant, in the place. All that is found is that the Commissioner, who appears to have acted throughout in a very injudicious manner, read out the order and asked the petitioner to be allowed to carry it out, and that petitioner, without giving any answer, remained inside his house with closed doors. We do not think that mere failure to comply with the request of the Commissioner amounts to such obstruction as is contemplated in Section 186. The use of the word 'voluntarily' seems to us to indicate that the Legislature contemplated the commission of some overt act of obstruction, and did not intend to render penal mere passive conduct. It was not asserted that petitioner barricaded his doors or assaulted the Commissioner, or took any active step to oppose the execution of the commission. He merely shut himself up in his house and took no notice of the Commissioner. His object apparently was not to obstruct, but to gain time for the compromise, which later on in the day was effected. The conviction cannot be sustained, and we accordingly set it aside, and the fine, if paid, will be refunded.

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