

In Re: C. Guruswami

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SooperKanoon Citation : sooperkanoon.com/807510

Court : Chennai

Decided On : Oct-27-1941

Reported in : (1942)1MLJ457

Appellant : In Re: C. Guruswami

Judgement :

ORDER

Horwill, J.

1. The petitioner has been convicted and sentenced in connection with three speeches made by him, which have been marked as Exs. B, D and F; and he has been sentenced to six months' rigorous imprisonment.
2. From a perusal of the portions of the speeches marked, I have no doubt that the learned Magistrate was right in holding that they infringed the provisions of the Defence of India Act. They tend to bring the Government in some small measure into hatred or contempt. I do not think that there was any direct instigation to use criminal force against any public servants; but a great deal was said against the Police which would have the effect of rousing hatred against them.
3. There is, however, nothing in these comparatively mild speeches which could influence the conduct or attitude of any section of the public in a manner likely to be prejudicial to the effective prosecution of the war. I feel that where a speech is made in connection with a trade or industrial dispute which in normal times would

not render the speaker liable to punishment, and the speech does not adversely affect the war effort or seriously embarrass the Government, it is ordinarily unfair to invoke the provisions of this Act. It may be well in this connection to refer to the preamble of the Act, in which it is said:

Whereas an emergency has arisen which renders it necessary to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences;

and whereas the Governor-General in his discretion has declared by Proclamation under Sub-section (1) of Section 102 of the Government of India Act, 1935, that a grave emergency exists whereby the security of India is threatened by war;

It is hereby enacted as follows:

This preamble shows that it was not intended that this Act should be used where the public safety and the defence of British India is not imperilled. Where, however, a speaker is charged under this Act, the Magistrate is bound to convict if the provisions of the Act are infringed. He can, however, in determining the appropriate sentence, consider whether the speech causes any embarrassment to the Government in the prosecution of its war effort. The speeches with which we are here concerned are non-political in nature and refer only once to the war and that indirectly. That one reference seems rather to approve of the war. I am satisfied, on a reading of the speech as a whole, that the sole object of the 'speaker was to promote the interest of himself and his fellow-workers in municipal employment.

4. The petitioner has already spent some months in jail; and I think that he has more than sufficiently suffered for any infringement of the Defence of India Act. The sentence is reduced to that already undergone.