

Niranjan Lall Arya Vs. State

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Court : Kolkata

Decided On : Mar-21-1952

Reported in : AIR1954Cal82,56CWN535

Judge : Harries, C.J. and ;S.R. Das Gupta, J.

Acts : West Bengal Cotton Cloth and Yarn Control Order, 1948 - Section 13(1); ;
[Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 243, 255 and 271

Appeal No. : Criminal Revn. No. 1131 of 1951

Appellant : Niranjan Lall Arya

Respondent : State

Advocate for Def. : Amaresh Chandra Roy, Adv.

Advocate for Pet/Ap. : Sambhunath Banerjee and ;Anil Kumar Sen, Adv.

Judgement :

S.R. Das Gupta, J.

1. This is an application for revision of an order of the Sessions Judge, Darjeeling, affirming the conviction of the petitioner under Section 7, Essential Supplies Act.
2. The petitioner is said to have violated the provisions of an order made by the Director of Textiles, Government of West Bengal, issued on 31-8-1949. That an

act has been committed in violation of that notification is not in dispute.

3. The only point which is urged before us, and we consider that to be a point of substance, is that the said notification issued by the Director of Textiles, Government of West Bengal, dated 31-8-1949 cannot be operative in Darjeeling where the offence is said to have been committed. It appears that Section 13(1), West Bengal Cotton Cloth and Yarn Control Order, 1948, under which the said notification was issued by the Director of Textiles, provides that the Controller may with a view to Securing a proper distribution of cloth and yarn and with a view to securing compliance with this order give such direction to any dealer or any class of dealers as he may think fit and may issue such further instructions as may be necessary regarding the manner in which such direction shall be carried out. 'Controller' has been defined in Section 3 Sub-clause (e) of the said West Bengal Cotton Cloth and Yarn Control Order, 1948, as meaning in Calcutta a Director and elsewhere the District Controller of Civil Supplies or any other officer appointed by the Director to perform the functions of the Controller under this Order. A 'Director' has been defined as meaning the Director of Textiles appointed by the State Government and includes any Officer authorised by the Director by an order in writing to perform all or any of the functions of a Director under this order.

Thus it appears to be clear that the notification which is to be issued, if it is to be effective in any place outside Calcutta, must be issued by the District Controller of Supplies or any other officer appointed by the Director to perform the functions of the Controller under this order. Any notification issued by the Director of Textiles appointed by the State Government can be operative only in Calcutta and the same cannot be operative in any District outside Calcutta. The present offence is said to have been committed in Darjeeling and this notification which has been issued by the Director of Textiles, Government of West Bengal, cannot be operative So far as the District of Darjeeling is concerned. It can be operative only in Calcutta. That being so, it seems to us to be clear that there can be no conviction for violation of the order of the Director of Textiles in respect of an offence committed in Darjeeling. The petitioner therefore must be acquitted.

4. It appears that the petitioner has before the trial Court, pleaded guilty. That must have been done under an erroneous view of the law, and we do not think that that would stand in the way of his acquittal, if he cannot be convicted in law for violating an order of the Director of Textiles in question.

5. The result, therefore, is that the Rule is made absolute. The petitioner is acquitted and any fine if paid must be refunded.

6. The order of forfeiture must be set aside.

Harries, C.J.

7. I agree.

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