

Emperor Vs. Satish Chandra Roy

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SooperKanoon Citation : sooperkanoon.com/856185

Court : Kolkata

Decided On : Jun-19-1907

Reported in : (1907)ILR34Cal749

Judge : Mitra and ;Caspersz, JJ.

Appellant : Emperor

Respondent : Satish Chandra Roy

Judgement :

Mitra and Caspersz, JJ.

1. This is an appeal by the government of Eastern Bengal and Assam in a prosecution under the Indian Arms Act (XI of 1878). The question raised is one of general importance, as it involves the interpretation of Section 4 of the Act. Does a sword-stick come within the definition of the word arms? That word, according to its definition, includes 'fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, and also cannon and parts of arms.' The denotation is neither exhaustive nor altogether happy, but we are now only concerned with the words swords and daggers.

2. The dagger is a weapon which in relation to its comparatively short blade may be considered a diminutive sword. The word sword is a generic description. It is difficult, as a matter of verbal, definition, to distinguish the sword from smaller

hand-weapons. An ordinary sword may be four or five times as long as an ordinary dagger. There are also long daggers and short swords. The length of the blade is no criterion of the name to be applied. Neither will the form of the blade, nor the handle, afford any certain test. The breadth of the blade is also no guide.

3. The shape of the sword has varied considerably in different countries and ages. A sword may be straight or curved; it may be short or long. Whatever can be used as an instrument of attack or defence for cutting as well as for thrusting, and is not an ordinary implement for domestic purposes, comes within the meaning of the statute.

4. It appears to us that a sword-stick is a sword sheathed in a cane stick. The Indian Arms Act of 1857 and 1860, relied on in argument by Mr. Roy on behalf of the accused, do not enable us to come to any other conclusion. Webster's Dictionary referred to by the lower Court is of still less use, as it does not mention the greatest or least length, as it was not possible that it could. A sword-stick with a blade two feet long is quite consistent with the generic idea of the word sword.

5. We are fortified in our conclusion by the fact that in compound words, such as sword-stick, the dominant idea is expressed by the first word, and a grammarian would say that a sword-stick is a stick which is composed of a sword.

6. The facts are not denied. They are fully proved. The accused was carrying a sword-stick when he alighted from a railway train at Comilla. But it is clear he did not know that it was necessary for him to obtain a license for the overt use of a sword-stick. He has produced a letter dated the 18th March. 1907, from Rodda & Co. of Calcutta, in which they say that, no license is necessary for the purchase of a sword-stick. But, a purchase of a weapon and the use of it do not necessarily entail the same identical penal consequences under the Indian Arms Act. A mistake, if any, of Rodda & Co., cannot also exonerate the accused from liability.

7. We find the accused guilty under Section 19(e) of the Arms Act. But a nominal fine will be sufficient. We sentence the accused Satish Chandra Roy to pay a fine of one rupee only.

