

Faiz Ali Vs. Emperor

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Court : Kolkata

Decided On : Aug-20-1909

Reported in : (1910)ILR37Cal27,5Ind.Cas.495

Judge : Coxe and ;Ryves, JJ.

Appellant : Faiz Ali

Respondent : Emperor

Judgement :

Coxe and Ryves, JJ.

1. The petitioner in this case has been convicted under Section 164 of the Assam Labour and Emigration Act, 1901, for inducing one Lal Bahadur Kurmi to emigrate from Arrah, in contravention of the notification published under the Act, prohibiting all persons from recruiting, inducing, engaging or assisting any persons to emigrate from any district in Bengal. The petitioner obtained this Rule from this Court on the District Magistrate to show cause why the conviction and sentence of the petitioner should not be set aside on the ground that the facts found did not constitute the offence of which the petitioner had been convicted.

2. It appears that the accused induced Lal Bahadur to leave Cawnpore in order to go to Fiji to work. On the way 'they stopped at Arrah, and then the accused told Lal Bahadur that he would have to go to Sylhet, and placed him in a train in charge of

a sardar for the purpose of ultimately going to that place.

3. It has been argued on behalf of the petitioner that the offence, if any, was committed and completed in Cawnpore, and that consequently the authorities in Arrah had no jurisdiction to deal with the matter. We think that there would be a good deal of force in this contention if, as a matter of fact, Lal Bahadur had been induced to leave Cawnpore in order to go to Sylhet. It seems to us that if the man had originally been induced to go to Sylhet to labour there for hire, it would be difficult to hold that there was a fresh emigration at every place at which he might stop on his journey. But it seems clear that Lal Bahadur was not induced to leave Cawnpore in order to go to labour at Sylhet, but in order to go to Fiji, and, therefore, no offence under Section 164 of the Act was committed at Cawnpore. That section provides that 'whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment,' and the word 'emigrate' is defined as meaning the departure of a native of India for the purpose of labouring for hire in a labour district.

4. It is clear, therefore, that Lal Bahadur did not emigrate within the meaning of this Act from Cawnpore, and was not induced to emigrate therefrom. It was not until he arrived at Arrah that any attempt was made to induce him to depart from the place where he then was, for the purpose of labouring for hire in Sylhet. There is no reason why persons, who are actually on a journey from one place to another, should not be protected from unlawful recruitment just as well as persons living in their villages. We think that the facts found in the case do constitute, the offence charged. The Rule is accordingly discharged.