

Panatulla Vs. Queen-empress

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Court : Kolkata

Decided On : Dec-21-1887

Reported in : (1888)ILR15Cal386

Judge : Wilson and ;Tottenham, JJ.

Appellant : Panatulla

Respondent : Queen-empress

Judgement :

Wilson, J.

1. The accused in this case was charged and convicted under Section 177 of the Penal Code. This section contains two branches. The first branch of it runs thus: 'Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.' This deals with the simple case of a person who, being bound to furnish true information to a public servant, furnishes false information to him, and, under this part of the section, the maximum punishment is six months' simple imprisonment with or without fine.

2. The second branch of the section is expressed thus: 'Or if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.'

3. The facts found against the accused were these: He was a constable, and was employed on what is described as round duties-that is to say, it was his duty to make his rounds by night and to call at the houses of the notorious bad characters on his beat who were under police supervision, and to ascertain whether they were indoors or not. And on one occasion, having made his rounds, he falsely stated as to some of these people that they had been inside their houses when as a matter of fact they had not. Now that was information which he was bound to furnish to a public servant, that is to say, to his superiors, and it is found that he willfully made a false statement; therefore his offence comes under the first part of the section. But he has been convicted under the second part of it on the ground that the information was required for the purpose of preventing the commission of an offence. I think that must mean not for the purpose of preventing the commission of offences generally, or rendering the commission of them more difficult, but for the purpose of preventing the commission of some particular offence. That being so, the case does not come within the second part of that section. It follows therefore that the sentence which was passed was one which ought not to have been passed. The prisoner was sentenced to six months' rigorous imprisonment, whereas the maximum punishment to which he could have been sentenced was six months' simple imprisonment. It appears that he has already undergone three months' rigorous imprisonment, which he ought not to have been subjected to, and therefore the justice of the case requires that the three months' rigorous imprisonment which he has undergone should be taken as equivalent to the term of simple imprisonment to which alone he could have been legally sentenced. He will, therefore, now be released from imprisonment, the sentence of six months' rigorous imprisonment which was passed upon him being reduced to one of simple imprisonment from the date of the conviction to the present date.

