

In Re: Babu Monotoshan Roy

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Court : Kolkata

Decided On : Jun-07-1943

Reported in : AIR1943Cal371

Appellant : In Re: Babu Monotoshan Roy

Judgement :

ORDER

1. The pleader concerned in this case is Mr. Monotoshan Roy, a pleader who practises at Ghatal. He was convicted under Sub-rule (5) of Rule 38, Defence of India Rules, for distributing two pamphlets, which contained matters of a prejudicial nature. He was convicted by the trying Magistrate, and sentenced to rigorous imprisonment for two years. On appeal to the learned Sessions Judge, the learned Judge upheld his conviction, but reduced the sentence to the period already undergone, which was about a month. In the course of his judgment the learned Sessions Judge records this finding that when the presidents of two District Union Boards came to Ghatal for the purpose of arranging distribution of kerosine oil, the pleader concerned handed over to them two copies of printed pamphlets. On this fact the learned Judge came to the finding that there was distribution, but in considering the question of sentence he made the following observation:

The circumstances under which the distribution took place rather go to support the view that the appellant passed on the two documents to P.Ws. 1 and 3 in a light-hearted manner without any ulterior motive of influencing the two presidents. We get from P.W. 1 also that the appellant was in a joking mood and was cutting jokes

with one Suran Santra. The appellant's act was undoubtedly foolish in the extreme, but I am inclined to accept his explanation that 'in the true spirit' he did not distribute the hand bills.

2. There is another finding of the learned Sessions Judge to this effect:

The fact, however, is that on a search of the appellant's person and house the very next day, no other copies of these documents were found.

3. On these findings, we cannot come to the conclusion that the conviction of the pleader concerned implies a defect of character which renders him unfit to be a pleader. We accordingly discharge this rule.

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