

Parmananda Agarwala Vs. Emperor

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Court : Kolkata

Decided On : Jun-21-1922

Reported in : AIR1922Cal538,71Ind.Cas.49

Judge : Walmsley and ;Suhrawardy, JJ.

Appellant : Parmananda Agarwala

Respondent : Emperor

Judgement :

Walmsley, J.

1. This Rule was obtained, by the petitioner calling upon the Deputy Commissioner to show cause why the proceedings instituted against him under Section 17, Clause (2) of the Criminal Law Amendment Act (XIV of 1908) should not be quashed or, in the alternative, why the case should not be transferred to some other District for trial. The case originated on a Police Report, dated the 10th April, 1922, which is in these words: 'I beg to report that Srijut Parmanand Agarwala has been assisting the volunteers by giving them shelter in a house belonging to him in the Tezpur town. I, therefore, request the action under the Criminal Law Amendment Act may be taken against him.' Upon this, the Deputy Commissioner ordered: 'Issue warrant with bail under Section 17(2) of the Act.' That section is in these words: 'Whoever manages, or assists in the management of, an unlawful association, or promotes or assists in promoting a meeting of any such

association, or of any members thereof as such members, shall be punished, etc.' It appears to me that this report fails to make out 'a prima facie case in respect of the offence described in this section. Mr. Orr, who appears for the Crown, concedes that the report is defective and he has drawn our attention a later report, dated the 16th May, 1922, which is very much fuller. That however is not on the record and it is quite clear that the report of the 16th May, is not the report on which the warrant was issued. I think that for these reasons, we must order that the present proceedings should be quashed. It is unnecessary for us to go into the further question raised as to the cognizance taken by the Deputy Commissioner. The result is that the proceedings based on the report of the 10th of April 1922 are quashed and the petitioner will be discharged from bail so far as those proceedings are concerned.

Suhrawardy, J.

2. I agree.

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