

Santo Singh Vs. Emperor

Santo Singh Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/877303

Court : Kolkata

Decided On : Dec-01-1932

Reported in : AIR1933Cal495,145Ind.Cas.177

Appellant : Santo Singh

Respondent : Emperor

Judgement :

1. This Rule was granted by Jack and Dwarka Nath Mitter, JJ., on 6th June 1932, and calls on the Deputy Commissioner of Kamrup to show cause why the conviction of the accused and the sentence passed on him under Section 19(f), Arms Act, should not be set aside on the ground that on the findings of fact arrived at by the Sessions Judge the petitioner was entitled to an acquittal. Owing to the course which the proceedings have taken the result of the Rule has very little importance as the petitioner has now served out the sentence imposed upon him. He was convicted by an Honorary Magistrate of Gauhati of being in illegal possession of a revolver 'in loose parts' without a license and sentenced to a year's rigorous imprisonment. On appeal the learned Sessions Judge upheld the conviction but reduced the sentence to a period of six months. It appears that a box belonging to the accused was searched at Amingaon Railway Station and there was found in it a rag in which were tied 21 parts of a revolver. These parts were rusty and the witnesses before the Magistrate who were questioned on the point stated that they, at any rate, could not put the parts together. The learned Magistrate who is a retired Police Officer and thus has an expert knowledge of fire

arms says that if the parts were cleaned and oiled they could be used for the purpose for which they were originally intended. Both the Courts below rejected the defence of the petitioner as to how he had come to be in possession of the articles in question. The only point is whether the articles in question are arms within the meaning of Section 19, Sub-section (f), Arms Act of 1878. 'Arms' are not defined in Section 4 of the Act, but it is provided that they include fire-arms, bayonets, swords, daggers, spears, spearheads, bows, arrows, cannon, parts of arms and machinery for manufacturing, arms.

2. The petitioner has relied on the case of *Queen v. Siddappa* (1883) 6 Mad 60, where a Full Bench of the Madras High Court held that a gun rendered unserviceable by the loss of the trigger does not fall within the definition of 'arms' in Section 4, Arms Act 1878, and that possession of such a weapon without a license is not an offence under Section 19(f). It is unnecessary for us to criticise the reasoning in that case because another Full Bench of the Madras High Court has definitely held that the decision in *Queen v. Siddappa* (1883) 6 Mad 60, is not correct observing that the question is not so much whether the particular weapon is serviceable as a fire arm but whether it has lost its specific character and has so ceased to be a fire arm: see *Empress v. Jayarami Reddi* (1898) 21 Mad 360. It appears to us that it cannot be said that the articles found had so changed their original character as to have ceased to be parts of a fire arm. They were all parts of the same revolver and there is nothing to suggest that they could not be assembled together either with or without other parts in such a way as to be capable of being used as a fire arm. In the circumstances, we think that the accused has been rightly convicted and we discharge the Rule.