

**Prem Nath Vs. the State**

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**Court :** Himachal Pradesh

**Decided On :** Jul-12-1950

**Reported in :** 1951CriLJ14

**Judge :** Harnam Singh, J.

**Appellant :** Prem Nath

**Respondent :** The State

**Judgement :**

**Harnam Singh, J.**

1. Prem Nath son of Tulsi Ram was convicted under Section 420, Penal Code, in the Court of Special Railway Magistrate, Atubala Cantonment on 31-10 1949, and was sentenced to rigorous imprisonment for six months. On 8-12-1949, he was surrendered to the Patiala and Bast Punjab States Union to stand his trial in the Court of the Additional District; Magistrate Faridkot. He was kept in the District Jail, Faridkot, between 10-12-1949 and 16-5.1960, and re\* surrendered to (he Jail authorities in the Punjab State on 17-5-1960.

2. Prem Nath, now applies to this Court that the period between 8-12-1949, to 16-5-1950 should be taken into account in determining whether he has served the period of imprisonment imposed upon him by the Special Railway Magistrate, Ambala Cantonment on 31-10-1949.

3. In these proceedings no one has appeared on behalf of the prisoner.

4. Mr. Harbans Singh Gujral who appears for the State maintains that the case falls under Section 11 (2), Extradition Act, 1903. Section 11 (2) reads:

11. (2) On the surrender of a person undergoing sentence under a conviction in British India his sentence shall be deemed to be suspended until the date of his resurrender when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

5. Article 4(2) of the India (Adaptation of Existing Indian Laws) Order, 1947, inter alia enacts that references in any existing Indian law to 'British India' shall, except where the reference occurs in a title or pro-amble or any citation or description of an Act, Ordinance or Regulation and except where the context otherwise requires be replaced by a reference to 'all the Provinces of India', and the words 'all the Provinces of India' have been defined in Article 4 of the Adaptation of Laws Order, 1960 to mean 'the whole of India except Part B States'. Patiala and East Punjab States Union is a State falling within the first Schedule Part B of the Constitution of India.

6. That being so, it is plain that on the surrender of Prem Nath to the Patiala and East Punjab States Union on 8-12-1949, the sentence imposed upon Prem Nath for an offence under Section 420, Penal Code, was suspended until the date of his re-surrender, namely, 17-12-1950.

7. On this point paragraph 450 (4) of the Manual for the Superintendence and Management of Jails in the Punjab may also be seen. Paragraph 450 (4) reads:

450 (4). When a person undergoing sentence under conviction in British India in any of the jails in the Punjab is surrendered to an Indian State or Foreign Jurisdiction, his sentence shall be deemed to be suspended until the date of his re-surrender when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

8. For the foregoing reasons there is no substance in this petition which fails and is dismissed.

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