
(1914) 05 CAL CK 0002

Calcutta High Court

Case No: None

Moheswari Prosad Singh Deo

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: May 21, 1914

Citation: 24 Ind. Cas. 945

Hon'ble Judges: Teunon, J; Sharfuddin, J

Bench: Division Bench

Judgement

1. This was a Rule calling upon the Deputy Commissioner of Singbhum to show cause why the proceedings described in the application should not be quashed on the ground that the British Courts had no jurisdiction to take cognizance of retention of stolen articles outside British India. The Deputy Commissioner was further requested to inform this Court whether Panposh or rather the post office building at Panposh were or were not within British territory.

2. It is admitted that the village Panposh is not within British territory excepting a certain portion of it which comprises the premises of the Bengal-Nagpur Railway Co. It is also admitted that Khar Sawan, the place where the petitioner resides, is beyond British territory, the offence u/s 411, Indian Penal Code, is said to have been committed by the petitioner at Khar Sawan which is beyond British territory. The question, therefore, is whether the petitioner who has not been prosecuted for theft, but for having been found in Khar Sawan in possession of stolen articles, can be tried by the British Courts.

3. An explanation has been submitted by the learned Deputy Commissioner in which he refers to a certain Government notification in one of the Gazettes of the new Province of Bihar and Orissa by which it is declared that a certain portion of Panposh was made subject to the jurisdiction of British Courts. It has been contended that the theft having taken place within the post office buildings which are situated within British territory, the offence- u/s 411 should be considered to be an offence which can be tried in British territory although the petitioner was found

retaining the property in question at Khar Sawan which is beyond British territory. In support of this view illustration (b) of Section 180, Criminal- Procedure Code, has been relied upon. It is contended that under that section the accused can be tried in a British Court for having been found in possession of the stolen articles at, Khar Sawan which is beyond British territory. But we are of opinion that we cannot extend the operation of the Criminal Procedure Code beyond British territory. Khar Sawan is certainly beyond British territory and British Courts have got no jurisdiction to try the petitioner for an offence u/s 411 committed there with regard to the stolen properties in question.

4. In connection with this the learned Deputy Legal Remembrancer has drawn our attention to a Bombay case which was a case of dacoity committed in the dominions of the Gaekwar. Some people were found in possession of sortie properties, the subject of that dacoity, at Bombay. The question was whether these men could be tried for dacoity at Bombay. It was held that the dacoity having been committed in the dominions of the Gaekwar these men could not be tried by British Courts for committing dacoity, but they could be tried u/s 411, Indian Penal Code, by any Court at Bombay for having been found in possession there of the stolen property. The present case is quite different. It is an offence u/s 411, Indian Penal Code, committed beyond British territory. In the Bombay case the offence u/s 411 was committed within British territory and, therefore, it was held in the Bombay case that the accused could be tried in any of the Bombay Courts.

6. We, therefore, quash the proceedings and make the Rule absolute. The petitioner will now be discharged from his bail.