(1970) 11 CAL CK 0001

Calcutta High Court

Case No: Criminal Revision Case No"s. 512 and 513 of 1968

H.M. Jadwet		APPELLANT
	Vs	
Commander K.P. Nayar		RESPONDENT

Date of Decision: Nov. 9, 1970

Acts Referred:

- Inland Vessels Act, 1917 - Section 10, 10, 10, 11, 11

Citation: 77 CWN 19

Hon'ble Judges: N.C. Talukdar, J

Bench: Single Bench

Advocate: Ajit Kumar Dutt, Pritish Chandra Roy and D.K. Sen, for the Appellant; Sankardas Banerjee, Prasun Chandra Ghosh and Promode Ranjan Roy for the Opp. Party No. 1 and Amiyalal Chatterjee for the State, for the Respondent

Judgement

N.C. Talukdar, J.

These two Rules which involve the same point and are between the same parties, are taken up together for disposal. The Rules are at the instance of the accused-petitioner Rasim Mohammad Jadwet for quashing two criminal proceedings, being criminal cases Nos. 27/24 and 28/24 of 1968, pending against the accused-petitioner and 5 others under sections 55(1) and 59(a) and (b) of the Inland Steam-Vessels Act, 1917 (I of 1917), for a contravention of section 3(1) and/or section 19-A(1) and of section 27 respectively of the said Act in the court of the Additional District Magistrate, Port Blair, Andaman and Nicobar Islands. The facts leading on to the Rules can be put in a short compass. Two petitions of complaint were filed on 11.4.68 by the complainant opposite-party No. 1, Commander K.P. Nayar, I.N., Harbour Master, in the court of the Additional District Magistrate, Port Blair, Andaman and Nicobar Islands, against the accused-petitioner and 5 others under sections 55(1) and 59(a) and (b) of the Inland Steam-Vessels Act, 1917. The two cases relate to two different Motor Launches viz., M.L., Sabreena in the first case and M.L. Sameena in the second one and the 6th accused in the first case is Adam Moosa while in the second case he is Kapey. The prosecution case inter alia is that the accused persons

Nos. 1 to 5 including the accused-petitioner had committed offences u/s 55(1) of Art I of 1917 by plying two boats M.I. Sabreena and M.L. Sameena in the inland waters of Port Blair in contravention of section 3(1) and/or 19-A(1) of the Inland Steam-Vessels Act I of 1917 and also an offence u/s 59(b) of the said Act by employing as Master/Serang and Engine Driver the 6th accused without ascertaining that the said accused No. 6 was in possession of a certificate of competency as required u/s 27 of the above-mentioned Act The prosecution case further is that the accused No. 6 in each case had committed an offence u/s 59(a) of the Inland Steam-Vessels Act, 1917 by operating and running the said motor launches M.L. Sabreena and M.L. Sameena in the inland waters of Port Blair without possessing the Serang''s/Engineer''s or Engine Driver''s certificates/or Motor or Engine Driver''s licenses. The Additional District Magistrate by his order dated the 11th April 1968 recorded and admitted the complaints filed and directed the same to come up for hearing on 15.4.68 for consideration. On 15.4.68 the learned Additional District Magistrate perused the complaint, took cognizance, and summoned the accused for appearance on the 7th May, 1968. On 7.5.68 the accused H.M. Jadwet and Adam Moosa in one case and H.M. Jadwet and Kapey in the other were present and were directed to execute a personal bond of Rs. 1000/- each with one surety of the like amount. The cases were fixed for appearance of the remaining accused on the 28th May, 1968. In the meanwhile the accused petitioner H.M. Jadwet moved two revisional applications in this Court on the 20th May, 1968 challenging the maintainability of the proceedings pending against the accused and obtained two Rules as also orders for interim stay.

2. Mr. Ajit Kumar Dutt, Advocate (with Messrs Pritish Chandra Roy and D.K. Sen, Advocates) appearing on behalf of the accused-petitioners made a two-fold submission. He contended in the first instance that the present proceedings are not maintainable for a nonconformance to procedure established by law in chapters II, II-A and III of the Inland Steam-Vessels Act, 1917 (I of 1917). In this context Mr. Dutt further submitted that the right to carry on trade is a fundamental right granted under the Constitution, and can only be reasonably restricted by the specific sections provided for in Act I of 1917 viz., sections 4, 6, 7, 8, 9 10, 19B, 19E; 19G, 19I, 20, 21, 29, 30A and other provisions but the State having not carried out its statutory obligation thereunder, as enjoined, the fundamental rights of the accused to carry on trade remain unfettered. Mr. Dutt secondly contended that in any event even if there be a technical contravention of sections 55(1) and 59(a) and (b) of Act I of 1917, the same is clearly unaccompanied by a blameworthy mind or mensrea, ruling out thereby the offences alleged. Mr. Sankardas Banerjee, Senior Advocate (with Messrs Prasun Chandra Ghosh and Promod Ranjan Roy, Advocates) appearing on behalf of the opposite party No. 1, opposed the Rule. In reply to the first point, Mr. Banerjee contended that there has been no non-conformance to any procedure established by law as alleged and that sections 3(1), 19-A(1) and 27 being complete by themselves, a prosecution can be launched under sections 55(1) and 59(a) and (b) of Act I of 1917; without any rules being framed. Mr. Banerjee''s submission on the second point is that the offences provided for under sections 55(1) and 59(a) and (b) of the Inland Steam-Vessels Act, 1917 are statutory offence requiring no mensrea, and as

soon as there is any contravention of the said sections, the penalties are attracted. Mr. Amiyalal Chatterjee, Advocate appearing on behalf of the State also joined issue and submitted that it is premature at this stage to quash the proceedings. Mr. Chatterjee further submitted that in order to ascertain whether there has been a contravention of sections of sections 55(1) and 59 (a) and (b) of the Act, there must be a trial on evidence and that in the absence thereof the defence submissions made in this behalf are unwarranted and untenable. Mr. Chatterjee finally submitted that the offences alleged do not require any mensrea and by introducing the said concept, Mr. Dutt had tried to read more into the statute than the legislature ever intended.

3. Having heard the learned Advocates appearing on behalf of the respective parties and on going through the evidence on record we hold that there is a considerable force behind the first contention of Mr. Dutt. Proceedings under sections 55 (1) and 59 (a) and (b) are for non-conformance to sections 3(1), 19-A(1) and 27 of the Inland Steam Vessels Act, 1917. A consideration of the other sections of chapter II, II-A and III of Act I of 1917 would make it abundantly clear that neither section 3(1) nor section 19-A nor even section 27 of the said Act can operate independently without being considered in the context of the other sections in the above-mentioned chapters. It is pertinent therefore to refer to the provisions of chapters II, II-A and III. Section 3 in chapter II provides that "An inland steam-vessel shall not proceed on any voyage, or be used for any service unless she has a certificate of survey in force and applicable to such voyage or service". Section 4 refers to the appointment of surveyors and places of survey by the State Government which may by notifications in the official gazette declare such places as it thinks fit to be places of survey and appoint persons to be surveyors at the said place as it thinks fit for the purposes of this Act. Section 5 lays down the powers of the surveyors and section 6 refers to the fees in respect of the surveyors. Section 7 lays down the declaration of surveyors after the survey of the steam-vessel is completed and the surveyor is satisfied. Section 8(1) provides that the owner or master of a steam-vessel to whom a declaration is given u/s 7 shall, within 14 days after the date of the receipt thereof send the declaration to such officer as the State Government may, by notification in the official gazette appoint in this behalf. Section 9(1) provides that the State Government shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration sent u/s 8 cause a certificate of survey, in duplicate, to be prepared and notice thereof to be given to the owner or master of the steam vessel concerned. When such a certificate of survey is granted it is to be affixed u/s 10 on a conspicuous part of the steam-vessel. This is with regard to the provisions of section 3(1). The position with regard to section 19-A(1) of the Act is also the same. Section 19-A provides that any inland steam vessel shall not proceed on any voyage or be used for any service, unless it has a certificate of registration in respect thereof and granted under this Act. Section 19-B (1) provides that the State Government may, by notification in the official gazette declare the places of registry and appoint registering authorities at the said place for the purposes of this Act. Section 19-C again provides for the book of registration and section 19-D refers to the form and the place of an application for registration which is to be

accompanied by a copy of the certificate of survey in force. Section 19-E(1) refers to places of registration with some proviso and section 19-F refers to the grant of certificate of registration. Section 19-G provides for the automatic registration of inland steam-vessels registered under the Merchant Shipping Acts and section 19-I lays down the prohibition against transfer of certificate of registration wish certain proviso. The other following sections also relate to registration of alterations, transfer of registry, prohibition against transfer of ownership of registered vessel, suspension of certificates of registration and cancellation of registration. Section 19-R lays down the powers to make rules. In chapter III section 27 provides that an inland steam-vessel having engines of less than 40 nominal horse power shall not proceed on any voyage unless she has (a) as master a person possessing a serang''s certificate granted under this Act etc. and (b) as her engineer a person possessing a second class engine-driver''s certificate granted under the said section etc. with a proviso laid down thereto. The relevant sections to be considered in connection therewith are sections 20, 21, 22, 22-A, 23, 29, 30 and 30-A. Section 20 lays down that the State Government may appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency for acting as masters or serangs or as engineers or engine drivers as the case may be, on board inland steam vessels. Section 21 relates to the grant of masters'' serangs'' engineers'' and engine-drivers'' certificates of competency while section 22 refers to certificates of service. Licenses are provided for in section 22-A and section 23 provides that certificates are to be made in duplicates. The provisions of section 29 relate to the power of the State Government to make rules to regulate the granting of certificates of competency and section 30 lays down the power of the State Government to make rules as to grant of certificates of service. Section 30-A lays down the power of the State Government to make rules as to grant of licences. On a consideration of the aforesaid provisions of Act I of 1917, it is abundantly clear therefore that neither section 3(1) nor section 19A(1) nor even section 27 of the Act, a purported contravention whereof forms the subject-matter of the proceedings pending in the court below, can operate without implementing the other connected provisions laid down by the legislature either preceding or following the same. The certificates of survey or registration or of competency are not merely mechanical ones. It is not the failure to take any and every certificate--not certainly a fortuitous one--that has been made penal under Act I of 1917 but only the certificate of survey or of registration or of competency as granted under the relevant sections 4-18 in chapter I or 19B-19R in chapter II-A or 20-26 and 28-31 in chapter III of Act I of 1917 respectively. Anything short of that would be long off the mark.

4. To read section 3(1) or 19A(1) or 27 in a detached form, bereft of the context, would only lead on to an unreasonable conclusion, de hors the intention of the statute. Facts, according to Lou''s Pirandello "are like sacks, they cannot stand on their own". Sections 3(1), 19A(1) and 27 of Act I of 1917 are also like such facts and cannot stand on their own. The other provisions are therefore statutory obligations which must be fulfilled before the provisions relating to contravention and the subsequent penalties can be attracted. Mr. Banerjee appearing on behalf of the opposite party No. 1, Commander K.P.

Nayar, Harbour Master, Andaman and Nicobar Islands, had contended that prosecutions under the Act can be instituted if and when there is a contravention of either section 3(1) or section 19A(1) or section 27, without the rules provided for thereafter being framed or the provisions laid down by the statute in the other connected sections being conformed to. I do not agree with the said proposition in view of the clear intention of the legislature as incorporated in the aforesaid provisions of the statute analysed above. Some meaning and effect must be given to the express provisions referred to above relating to notifications rules, powers to appoint surveyors the provisions for declarations, appointment of examiners, the fixing up the places of registration, the provisions relating to the certificates of registration and the rules of granting the masters", serangs", engineers" and engine drivers" certificates of services respectively. It is pertinent now to refer to the principles of interpretation of statutes to ascertain the intention of the law-making authority as incorporated in the relevant provisions of the Inland Steam-Vessels Act, 1917 (I of 1917). As is observed by Maxwell on "the Interpretation of Statutes", "A statute is the will of the legislature and the fundamental rule of interpretation, to which all others are subordinate, is that a statute is to be expounded according to the intent of them that made it". A reference in this context may be made to the golden rule of construction of statutes. Viscount Simon L.C. held in the case of (1) Nokes v. Doncaster Amalgamated Collieries, reported in (1940) A.C. 1014 at page 1022 that "The golden rule is that the words of a statute must prima faice be given their ordinary meaning". It was further observed by the Lord Chancellor that "at the same time, if the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result". Judges are not called upon ordinarily to apply their opinion of sound policy so as to modify the plain meaning of statutory words. It is again to be remembered that the principles of interpretation of statute rule out redundancy. As was observed by Lord Sumner in the case of (2) Quebec Railway Light Heat and Power Co. Ltd. v. Vandry reported in AIR 1920 P.C. 181 at page 196 that "Effect must be given if possible to all the words used, for the Legislature is deemed not to waste its words or to say anything in vain". Mr. Justice Subbarao (as His Lordship then was) also observed in the case of (3) Ghanshyam Das Vs. Regional Assistant Commissioner of Sales Tax, Nagpur, at page 772 that "A construction which would attribute redundancy to a legislature shall not be accepted except for compelling reasons". I respectfully agree with the said observations and in view of the language of the relevant provisions of Act 1 of 1917, I find no compelling reasons to hold otherwise. The intention of the legislature as incorporated in the relevant provisions considered above clearly rule out the circumscribed interpretation sought to be given thereto by Mr. S. Banerjee, appearing on behalf of the opposite-party No. 1, and adopted by Mr. A.L. Chatterjee appearing on behalf of the State. To hold otherwise would be to leave inland waters and embark on a voyage of discovery.

5. The authorities have not carried out their statutory obligations by implementing the other sections provided for in the statute which are indispensable for determining whether there is the factum of a contravention leading on to the penalties provided for. This has undoubtedly vitiated the resultant proceedings. The principle of law that arises for consideration in this connection is that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. The principle is well-known and way back in 1876 in the case of (4) Taylor v. Taylor reported in (1876) 1 Ch. D. 426. Jessel M.R. observed at page 431 that "When a statutory power is conferred for the first time upon a court and the mode of exercising it is pointed out it means that no other mode is to be adopted". A reference in this context may also be made to the case of (5) Nazir Ahmed and the King Emperor, respondent reported in LXIII Indian Appeals page 372. Lord Roche delivering the judgment of the Judicial Committee observed at pages 381 and 382 that "The rule which applies is a different and not less well recognized rule--namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden". Their Lordships of the Judicial Committee approved of the principles laid down in the case of Taylor v. Taylor. In a later decision the Supreme Court again reiterated the said principle in the case of (6) State of Uttar Pradesh Vs. Singhara Singh and Others, wherein Mr. Justice A.K. Sarkar (as His Lordship then was) delivering the judgment of the court observed at page 361 that "The rule adopted in Taylor v. Taylor (1876) 1 Ch. D. 426 is well recognized and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted". We respectfully agree with the said observations and hold that the court below having not followed the procedure established by law, the resultant proceedings are vitiated and a continuance thereof would be an abuse of the process of the court. The first contention of Mr. Dutt accordingly succeeds.

6. The second branch of Mr. Dutt contention relates to mensrea. He contended that even if there be a contravention of sections 55(1) and 59(a) and (b) of the Inland Steam-Vessels Act, 1917, the same amounts to only a technical contravention or a contravention simpliciter, accompanied by a blameworthy mind or mensrea, ruling out thereby the offences alleged. Mr. Banerjee joined issue and submitted that there is no scope for any mensrea for offences under sections 55(1) and 59(a) and (b) of the Inland Steam-Vessels Act, 1917 (I of 1917) as these are offences of strict liability or statutory offences requiring no mensrea. It is difficult to agree with the contention of Mr. Banerjee. It can be held in the first blush, on a consideration of the respective sections, that section 3(1) read with section 4 to 18; or 19A(1) read with section 19B to 19R; or 27 read with sections 20 to 26 and 28 to 31 do not rule out mensrea but in fact lend assurance to the same. The point at issue in this case however, is not so much whether sections 55(1) and 59(a) and (b) of the aforesaid Act I of 1917 lay down statutory offences requiring no

mensrea but as to whether in the facts and circumstances of the case, having regard to the absence of any rules framed under Act I of 1917 and the voluminous correspondence that passed between the parties as also the efflux of a considerable period of time during which the boats in question were being plied openly, there is any blameworthy mind on the part of the accused persons so that the court of law--which is also a court of justice--can hold that there has been in fact any contravention as alleged. In this connection it is necessary to refer to the considerable volume of correspondence that passed between the parties from 1956 to 1968, annexed as annexure "A" collectively to the petition on which the two Rules had been issued. It is also necessary to remember that the two petitions of complaint were filed on 11.4.68. In the letter dated 14.11.58 from the Assistant Commissioner, Nicobar to Shri M.K. Sandel, Engineer and Harbour Master, Port Blair it has been mentioned that "there is no system of consideration or inspection nor any record of these boats here. I also do not know the procedure to be adopted in this matter". In the letter dated the 17th January, 1959 from Shri M.K. Sandel, Engineer and Harbour-Master, Port Blair, to the Assistant Commissioner, Nicobars, it is clearly mentioned that "In the course of his discussions with the Chief Commissioners it was decided that harbour craft rules from Vizag or Cochin be obtained and rules to govern local harbour crafts be framed suitably and promulgated. It is understood, the matter is now under the consideration of the administration and I feel pending framing of such rules governing harbour crafts, the matter may continue as at present". In a letter dated the 19th November, 1959 again, written by C.M. Jadwet for Car Nicobar Trading Co. to the Assistant Commissioner of Boats, Car Nicobar, it is mentioned that "According to the discussion the undersigned had with the Assistant Commissioner, we come to understand that the laws for registration etc. for Andaman and Nicobar Islands have not so far been framed and registration will only be effected after the laws are framed". It was further mentioned that the boats of the company meant for use in the Islands were without any registration. In the two letters dated the 15th March, 1960 sent by Y.M. Jadwet for Car Nicobar Trading Co. and Mancowri Trading Co. to the Harbour Master, Port Blair it is stated that "In this connection, we would like to inform that we contacted the Port Officer, Nicobar for due registration of our boats and motor boats but in the absence of any rules and regulations for registration of boats here, the Port Officer, Nicobar is unable to take any action". In the letter dated the 12th May, 1960 sent by R. Akoojee Jadwet and Co. to the Harbour Master, Port Blair it is mentioned that "We have to inform you that we had contacted the Port Officer Nicobar some time back for the registration of these boats but in the absence of any specific rules and regulations laid down for the registration of boats at Car Nicobar the Port Officer is unable to take any action". Three letters again were sent from the 6th June, 1962 by H.M. Jadwet, partner on behalf of the Car Nicobar Trading Co. and R.A. Jadwet and Co. wherein it has been stated again that "We shall be thankful if you kindly look into the matter and let us know whether any rule has been framed to enable us to submit the full particulars of our boats, motor boats and barges which are used for carriage of cargo and transporting labourers etc. The letter dated the 17th July, 1962 was addressed by C.M. Jadwet to the Chief Commissioner, Andaman and Nicobar Islands, Port Blair wherein the difficulties were again reiterated

and it was stated that "From time to time in the past, these firms have approached the administration for the registration of such crafts giving full details of all such crafts owned by these firms when required. We were given to understand that as at present there are no rules and regulations framed by the administration in this regard, the matter has been referred to the Government of India for finalisation. Several years have now elapsed and we are still not aware of the finalization of this matter". It was finally stated that "However, in the absence of any rules and regulations the trading firms for the smooth running of their trades within these Islands, are running such small crafts which is a known fact to all concerned for several years past". Another material letter is dated the 7th October, 1962 by Nancowri Trading Co. to the Harbour Master, Andaman and Nicobar Islands, Port Blair with copies to the Mercantile Marine Department, Calcutta and the Directorate General of Shipping, Government of India, Bombay stating that "We are ready to comply with all necessary formalities in this connection whenever the administration is ready with the rules etc." The other important letter is dated the 30th March, 1968 by the Jadwet Trading Co. to the Principal Officer, Mercantile Marine Department, Calcutta wherein it has been stated as follows : "Since 1960 we have been trying to register our crafts belonging to us and also to our principals in Nancowri and Nicobar but in the absence of any clear rules or notifications we have not been able to get any satisfactory information for the registration". Some of the correspondence that passed was also imposed along with the letter and it was requested that the Principal Officer may look into the matter and let the company know the possibilities of registration of his crafts as also the crafts owned by its Principals in the Andaman and Nicobar Islands. It was clearly reiterated that "For your information we further state that these motor boats are used in Car Nicobar and Nancowri group of Islands and also in and around Port Blair". It is significant that this letter was sent before the date of complaint on 11.4.68. This continued correspondence spread over a number of years brings to light the bonafides of the accused and rules out any mensrea on their part.

7. It is pertinent in this context to refer in a short compass to the principles behind the concept of mensrea which is as old as the hills. It is undoubtedly true that ordinarily a person cannot be convicted of a crime unless he has committed an overt act prohibited by the law or has made default in doing some act in which there was a legal obligation upon him to do. Such act or omission, however, must be voluntary and be associated with "a legally blameworthy condition of mind". The concept has been aptly expressed in the maxim "actus non facit reum nisi mens sit rea". It has been observed in Russell on Crime (11th Edn.) that if the special instances are left aside wherein "the ancient doctrine of absolute liability has been retained under the fiction of "implied" or "constructive mensrea" it cannot well be controverted that, at common law, there cannot be criminal guilt where mensrea is absent". As Lord Russell of Killowen C.J. observed "the general rule of law is, that no crime can be committed unless there is mensrea". It may be relevant in this context to consider that inadvertence also can form a part of the doctrine of mensrea. A reference in this connection may be made to the Monograph on Mensrea in Statutory Offences (English Studies in Criminal Science Series, Vol. VIII) by Prof.

Edward. I agree with the author"s conclusion at page 206 that so far as the field of criminal liability is concerned, negligence or blameful inadvertence may properly be designated as mensrea. There is a reference in Halsbury"s Laws of England Vol. 10, 3rd Edn. (Simonds Edn.) to a division of offences as favoured by older authorities into two classes termed "mala inse" and "mala Prihibita". According to Halsbury "a statutory crime may or may not contain an express definition of the necessary state of mind. A statute may require a specific intention, malice, knowledge, wilfulness or recklessness. On the other hand it may be silent as to any requirement of mensrea in such a case in order to determine whether or not mensrea is an essential element of the offence, it is necessary to look at the objects and terms of the statute. In some cases the courts have concluded that despite the absence of express language, the intention of legislature was that mensrea was a necessary ingredient of the offence. In others, the statute has been interpreted as creating a strict liability irrespective of mensrea. Instances of this strict liability have arisen on the legislation concerning food and drugs, liqour licensing and many other matters".

8. In this connection a reference may be made to the case of (7) AIR 1947 135 (Privy Council) wherein Lord du Pare(sic) agreed with the view expressed by Lord Goddard C.J. in the case of (8) Brend v. Wood reported in (1946) 175 L.T. 306 at page 307 as follows: "It is of the utmost importance for the protection of the liberty of the subject that the court should always bear in mind that, unless a statute, either clearly or by necessary implication, rules out mensrea as a constituent part of a crime, the court should not find a man guilty of an offence against the criminal law unless he has a guilty mind". Their Lordships of the Judicial Committee also referred in this context to the observations of Wright J. in the case of (9) Sherras v. De Rutzen as reported in (1895) 1 Q.B. 918. In the case of (10) Ravula Hariprasada Rao Vs. The State, Mr. Justice Fazl Ali delivering the judgment of the court held at page 206 that "In our opinion, the view of the law as propounded by the P.C. is the correct rule". In a recent decision namely in the case of (11) Nathulal, appellant v. State of Madhya Pradesh, respondent reported in AIR 1966 S.C. 48 Mr. Justice Subbarao (as His Lordship then was) on behalf of himself and Mr. Justice Bachawat, observed at page 45 that "mensrea is an essential ingredient of a criminal offence. Doubtless a statute may include the element of mensrea, but it is a sound rule of construction adopted in England and also accepted in India to construe statutory provision creating an offence in conformity with the common law rather than against it unless the statute expressly or by necessary implication excluded mensrea". I respectfully agree with the observations made by Their Lordships in the above-mentioned cases and having given my anxious consideration to the facts and circumstances of the present case I held that there was no blameworthy mind on the part of the accused concerned and as such the present proceedings for a purported contravention of sections 55(1) and 59(a) and (b) of the Inland Steam Vessels Act, 1917 (I of 1917) are bad and repugnant and as such should in the interests of justice be quashed. The second contention also of Mr. Dutt accordingly succeeds.

9. One other point as raised by Mr. Chatterjee appearing on behalf of the State, abides consideration as to whether the quashing of the proceedings at this stage would be premature. It is undoubtedly true that the High Court should be reluctant to interfere with the proceedings at an interlocutory stage because quashing is an extraordinary remedy; but it is also true that in a fit and proper case if it be not so done it would result in a failure of justice A reference in this connection may be made to the case of (12) R.P. Kapur Vs. The State of Punjab, wherein Mr. Justice Gajendragadkar (as His Lordship then was) observed at page 869 that "It is well-established that the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice.....It is not possible, or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction". The Supreme Court further proceeded to observe that "There may be cases where there may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice". It is also pertinent in this context to refer to the case of (13) Hukum Chand Boid v. Kamalanand Singh decided by Sir John Woodroffe and Sir Asutosh Mukherji JJ. and reported in ILR (1906) Cal 927. Sir John Woodroffe delivering the judgment of the Court observed at page 930 that "for my part I am always slow to believe that the courts powers are unequal to its desire to order that which it believes to be just". I respectfully agree with the observations made in the aforesaid cases and having given my anxious consideration to the facts and circumstances of the present case I hold that a continuance of the present proceedings would be an abuse of the process of the court and the quashing thereof would serve the ends of justice. The ancillary submission raised by Mr. Chatterjee, that the quashing of the proceedings at this stage would be premature, therefore fails. In the result, the Rules are made absolute; and the proceedings under sections 55 (1) and 59 (a) and (b) of the Inland Steam-Vessels Act, 1917 (I of 1917) pending against the accused before the Additional District Magistrate, Port Blair, Andaman and Nicobar Islands, in C.R. Cases Nos. 27/24 and 28/25 of 1968, are hereby quashed.