

(1954) 12 CAL CK 0014

Calcutta High Court

Case No: Criminal Revision Case No. 668 of 1954

Anil Kumar Nag

APPELLANT

Vs

The State

RESPONDENT

Date of Decision: Dec. 16, 1954

Citation: 59 CWN 303

Hon'ble Judges: Chunder, J

Bench: Single Bench

Advocate: Ajit Kumar Dutta, for the Appellant; Jatish Chandra Guha for the State, for the Respondent

Judgement

Chunder, J

1. This Rule was issued at the instance of an accused person, who has been fined u/s 11 of Bengal Act, II of 1867. It is found by the learned Magistrate that he was playing cards for money in a tea shop. Section 11 speaks of "any public market, fair, street, place or thoroughfare" etc. It is quite clear and it has been so decided in the case of Khudi Sheikh and Others Vs. The King-Emperor, "place" has got to be interpreted ejusdem generis and must be, therefore, some such place as is like a public market or fair or street, public thoroughfare i.e. a public place and it was decided in that case that a Thakur Bari, where gambling was said to have been going on, was not a public place. The proper interpretation of public place will be "where members of the public have an unrestricted right of entry", not where some private person may legally prevent him from going in.

2. It seems that in connection with the English Street Betting Act, though not exactly in all fours with this act, the question of "public place" came up for interpretation and this view of the law was accepted by Lord Goddard in the case of Brannan v. Peek (2) (1948) 1 K.B. 68, and a public home was held not to be a public place. In the present case, therefore, it cannot be said that the petitioner was gambling in a public place.

3. The conviction and sentence are set aside and the Rule is made absolute. The fine, if paid, is to be refunded.