

Walsh J.]. One of the tests may be that had the judgment-debtor paid the debt to one of the decree-holders amicably and out of Court, could he have successfully pleaded payment to all the decree-holders as full satisfaction of the decree? In my opinion in this case he could not.

In my judgment, this appeal fails and ought to be dismissed with costs.

As to the result of this difference of opinion, I have dealt with this question at length in my judgment in M. A. 19 and 20 of 1923 and I need not repeat the reasons here for the conclusion that my judgment agreeing with that of the lower Court should prevail. I am of opinion that the appeal should be dismissed.

A. S. M. A.

Appeal allowed.

APPELLATE CRIMINAL.

Before Greaves and Panton JJ.

BISHAN SINGH

v.

EMPEROR.*

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v
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Jan. 11.

"Arms"—Knife sharp throughout one edge and at the point of the other, and attached to a cross guard and handle—Arms Act (XI of 1878) s. 4.

A knife with a tapering blade, sharp throughout one edge and only towards the point of the other, which is attached to a cross-guard and handle, and which can be used for stabbing and cutting is "arms" within s. 4 of the Arms Act (1).

(1) S. 4.—"Arms" includes firearms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also cannon and parts of arms and machinery for manufacturing arms.

* Criminal Appeal, No. 552 of 1923, against the order of K. B. Das Gupta, officiating Second Presidency Magistrate, Calcutta, dated Aug. 11, 1923.

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THE appellant, Bishan Singh, was the proprietor of Singh Sarkar & Co., Calcutta. It appeared that his brother sent the firm, from Hamburg, a consignment of knives described in the invoice as butchers' or hunting knives. The blade tapered gradually to a point, and was attached to a cross-guard and handle. One edge was sharp up to the guard, the other only at the point. The Magistrate found that the knife could be used for stabbing and thrusting. The appellant sold quantities of the knives, on the 13th June, 5th and 25th December 1922, to three different purchasers. He was tried by Mr. K. B. Das Gupta on three charges under s. 19 (a) of the Arms Act, and sentenced to fines of Rs. 100, 200 and 600, respectively. He appealed against the conviction and sentence to the High Court.

Mr. S. K. Sen (with him *Babu Probooth Chunder Chatterjee*), for the appellant. The only question is whether the articles are "daggers." Rule 17 of the Local Rules and Orders for Bengal* referred to. "Double-edged" in the rule means sharp on both sides up to the guard. Comments on *Emperor v. Satish Chandra Roy* (1). The expert evidence shows they are hunting knives, and they were not dealt with as "arms" by the Customs authorities. A small fine would have been sufficient in this case.

The Deputy Legal Remembrancer (*Mr. Khundkar*) was not called upon to reply.

* *Rule 17*. Paragraph 16 prohibits persons from going armed with bayonets and daggers. The question has been raised whether hunting knives should be treated as daggers. This is a question of fact to be decided in each case, but the double-edged type of hunting knife with cross-guards should be treated as a dagger. . . ."

GREAVES AND PANTON JJ. The question that arises in this appeal is whether certain articles that have been imported by the accused from Germany are "arms," within the meaning of section 5 of the Indian Arms Act, as defined by section 4 of that Act. The articles in question were sent by the accused's brother from Germany on his own initiative. There was apparently some doubt at the Custom House whether they are "arms" within the meaning of the Arms Act of 1878, and the question was referred to the appraisers there for their decision. In the result the appraisers held that the articles fell within the definition of cutlery, and that they were not "arms" within the meaning of the Indian Arms Act of 1878. On behalf of the accused, evidence was called of Mr. Brown, who is a partner in Messrs. Manton & Co., and also of an employee in the firm of Messrs. Lyon and Lyon, and of other witnesses connected with firms which sell hunting knives and such like articles. Mr. Brown distinctly stated in his evidence that in his opinion the articles in question were not daggers, within the meaning of the Indian Arms Act, but that they were hunting knives, and he referred in his evidence to a catalogue of the well-known cutlers Rodgers (at page 68) for the purpose of showing that for an article to be a dagger it must be sharpened on both sides. We have had before us various exhibits (B), (D), (E) and (G) which were purchased from the shops of Messrs. Manton & Co., and Messrs. Lyon & Lyon and from other shops as hunting knives, and there is no doubt that, although the articles imported are inferior in quality, they do bear some considerable resemblance to the articles which are sold generally in Calcutta as hunting knives. But taking the matter as a whole we have come to the conclusion that the learned Magistrate was right in his decision, and that these

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articles fall within the definition of "arms" as given in section 4 of the Act. Whether they are "daggers" it is not, we think, necessary for us to decide, for section 4 does not purport to give an inclusive definition, for all that it says is that "arms" include, among other things, "daggers." This being so, we think that the conviction was correct, and that these articles fell within section 5 of the Indian Arms Act of 1878 *, and within the definition of arms to be found in section 4. But, having regard to the fact that the Custom appraisers considered that they were cutlery and that various witnesses of repute have considered that they were hunting knives, we think that it is not necessary to impose the somewhat heavy penalty that was imposed by the Second Presidency Magistrate. We think that, in importing these articles in the manner in which they were imported, the accused did not intend to controvert the provisions of the Indian Arms Act of 1878, and we, accordingly, reduce the penalty inflicted on each of the three counts to one of Rs. 50 in each case. The fines paid in excess of the amount which we have directed will be refunded.

Let the knives produced on behalf of the defence, namely, exhibits, (A), (B), (C), (D) (E) and (G) be returned.

E. H. M.

* S. 5. No person shall manufacture, convert or sell or keep, offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted thereby