

APPELLATE CRIMINAL.

Before Guha and Lodge J.J.

SACHIN DAS

v.

EMPEROR.*

1935

Aug. 13, 20.

Sedition—Communist speech, when amounts to sedition—Effect of speech, how to be ascertained—Indian Penal Code (Act XLV of 1860), s. 124A.

When the predominant idea of a speech in question is not only to support communism and to suggest some other form of Government but to bring the present Government and their supporters into hatred and contempt and raise hostile feelings against them, it is hit by section 124A of the Indian Penal Code.

If natural and probable effect of a speech on the minds of those to whom it is addressed appears to excite hatred and contempt against the Government, it is justifiable to say that the speech was delivered with that intent.

Chimanlal Rewashankar Joshi v. Emperor (1) referred to.

The word "disaffection" in section 124A of the Indian Penal Code explained.

Queen-Empress v. Ramchandra Narayan (2) referred to.

CRIMINAL APPEAL.

The material facts of the case and the arguments in the appeal appear from the judgment.

Kshiteeshchandra Chakrabarti and *Manmathanath Das* for the appellant.

A. K. Basu for the Crown.

Cur. adv. vult.

The judgment of the Court was as follows :—

The appellant Sachin Das was charged with having committed an offence under section 124A of the Indian Penal Code and on being tried for the same.

*Criminal Appeal, No. 336 of 1935, against the order of S. K. Sinha, Chief Presidency Magistrate, Calcutta, dated April 12, 1935.

(1) (1932) Unreported.

(2) (1897) I. L. R. 22 Bom. 152.

by the learned Chief Presidency Magistrate, Calcutta, was sentenced to rigorous imprisonment for one year.

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The charge against the appellant was that he, by delivering a speech under the auspices of the Unemployed Council, Calcutta, brought or attempted to bring into hatred or contempt, or excited or attempted to excite disaffection towards Government established by law in British India. The defence of the accused placed on his trial before the magistrate was that he had no intention whatsoever of preaching sedition, and that his only object was to express his views regarding the unemployment problem and to explain the various efforts made in different countries to tackle it. The question to be decided in the case was whether upon the speech, taken as a whole, it could be held that it attracted the provisions contained in section 124A of the Indian Penal Code. As has been stated before us by the learned advocate for the appellant, that the speech in question is full of jargon of communism, which may ordinarily be meaningless to an ordinary audience; but there is no question that the speech contained passages of which the following may be said to be typical:—

Hence I find to-day, the situation is that how all the communist leaders, all the workers' leaders are being subjected to oppression; for a single speech three months, six months, eleven months, provoking them unjustifiably and framing a charge of rioting against them For an imperialist power is most afraid of a workers' movement Hence it is not that Government put down the workers merely by means of a paper propaganda. In order to preserve simultaneously a balance of power they set up a counter-revolutionary organisation.

I want only to say that if you really feel any interest you should come forward under the Red Flag, you should come forward under Leninism.

The passages quoted above have to be considered with the entire speech, which shows a spirit of revolt against the established Government in this country, and an intention to excite disaffection towards the Government by bringing it into hatred and contempt. The predominating idea in the speech in question was not only to support the idea of communism, and to suggest some other form of Government, but to bring

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the present Government and the supporters of the same into hatred and contempt, and raise hostile feelings against them. It is well-settled that to determine whether the intention of the accused was to call into being hostile feelings, the rule that a man must intend the natural and reasonable consequences of his act must be applied; so that if on reading through the speech, the reasonable, natural and probable effect of the same on the minds⁷ of those to whom the speech was addressed, appears to be that feelings of hatred, contempt and disaffection would be excited towards the Government, then it is justifiable to say that the speech was delivered with that intent, and that there was an attempt to create the feelings against which the law seeks to provide. This is in spite of what was stated by the accused in his written statement before the magistrate that he had no intention of preaching sedition, and was only expressing his views on the unemployment problem. In this connection it may be stated, that we are in entire agreement with the observations of Beaumont C. J. that if a person chooses to speak in the same speech with two different voices, and one of those voices brings him within the reach of the criminal law, it is no excuse for him to say that the other voice expresses his real views, so as to do away with the inference deducible from the speech taken as a whole. See Ratanlal's Law of Crime, Thirteenth Edition, page 294, quoting the observations of the Chief Justice of the Bombay High Court, in the case of *Chimanlal Rewashankar Joshi* (1). The question to be considered in a case of the present description was whether the accused by his speech brought or attempted to bring into hatred or excited or attempted to excite disaffection towards the Government. The case of bringing into hatred or contempt and that of exciting or attempting to excite

(1) (1932) Unreported.

disaffection have, in view of the scheme of section 124A of the Indian Penal Code, to be considered together, the one resulting from the other. There was a very clear exposition of the law on the subject by Ranade J. in the case of *Queen-Empress v. Ramchandra Narayan* (1), in which the learned Judge explained the word "disaffection" as used in section 124A, Indian Penal Code. It is a positive political distemper and not a mere absence of negation of love or good-will. It is a positive feeling of aversion which is akin to disloyalty, a defiant insubordination of authority or when it is not defiant, it secretly seeks to alienate the people, and weaken the bond of allegiance, and prepossesses the minds of the people with avowed or secret animosity to Government, a feeling which tends to bring the Government into hatred or contempt by imputing base or corrupt motive to it, makes men indisposed to obey or support the laws of the realm and promote discontent and public disorder. Keeping the above view of the law in mind, with which we are in entire agreement, the speech which was the subject of the charge under section 124A against the appellant, taking the speech as a whole, was clearly one which attracted the provisions of the law contained in that section.

In our judgment, the magistrate in the court below was right in his decision that the speech delivered by the appellant on the 18th January, 1935, mentioned in the charge framed against the appellant, was calculated to bring the entire administration of the country, executive and judicial, into contempt and hatred, and the appellant was rightly convicted under section 124A of the Indian Penal Code. The sentence passed on the appellant is not severe.

The appeal is dismissed.

Appeal dismissed.

A. C. R.*C.