

## CRIMINAL REVISION.

*Before Henderson and Biswas J.J.*

SHAM SUL HUDA

v.

EMPEROR.\*

1937

May 18.

*News-sheet—Indian Press (Emergency Powers) Act (XXII of 1931), s. 2 (6).*

A leaflet, purporting to be an exhortation to the public to strive for freedom or independence, which, while including references to matters of historical interest also contains information and comments on events of topical importance or interest, is a news-sheet within the meaning of s. 2 (6) of the Indian Press (Emergency Powers) Act, 1931.

### CRIMINAL REVISION.

The facts of the case were that on January 26, 1937, a public meeting organised by the Congress Committee in connection with the "Independence Day" was held in Shradhdhânananda Park, Calcutta. It was followed by a labour meeting. A Sub-Inspector of police received a copy of a leaflet entitled "Independence Day". The accused Mano Ranjan Sur was seen distributing similar leaflets from a bundle which he carried. Another police officer received two similar leaflets in Halliday Park from accused Sham Sul Huda who was distributing them. An enquiry followed and it was discovered that the accused Mano Ranjan Ray and Abdul Jabbar had placed an order for several thousand copies of this leaflet with a press called The Calcutta Printing Works, and Mano Ranjan Ray had taken delivery of about 2,500 copies thereof. The accused were tried before the Chief Presidency Magistrate of Calcutta on a charge under s. 18(1) of the Indian Press (Emergency Powers) Act for making, distributing, publishing and publicly exhibiting the leaflets.

\*Criminal Revision, No. 292 of 1937 against the order of S. K. Sinha, Chief Presidency Magistrate of Calcutta, dated Mar. 22, 1937.

They were convicted by the learned Magistrate, against which conviction they obtained the present Rule.

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The leaflet in question was as follows :—

### INDEPENDENCE DAY.

Independence XXX

Independence XXX

This day seven years ago, just on this 26th January, we had unfurled the victorious flag of independence from Peshawar to Assam, from the Himalayas to Cape Comorin. One by one, seven long years have rolled by, in the meanwhile there has been a vast change in the country and in society. During these seven years, on the stormy and tumultuous days of national life crossing deserts and dense forests, hundreds of men and women with their legs tired and bodies fatigued, laid down their lives at the red altar of independence. Thousands of young men and women in vast crowds put on their brows the red mark of humiliation and persecution. On all sides the dread cloud of repression gathered, the whole nation suffered severely under the cruel lashes of persecution, the green earth was dyed red with the blood of the soldiers of independence. Yet the invincible desire of the nation for the attainment of independence did not weaken. We have still not been able to attain independence. The people disabled and dying through famine, flood and starvation, are again waking up. The invincible desire for the attainment of independence is making the whole country restive, even to-day thousands of young men and women, without trial, are passing the moments that are not in their control behind prison-walls. Even to-day the whole country is on the point of death through starvation, is devoid of prosperity through famine and flood, dying through exploitation and persecution, ferocious and cruel through conflict of greed and interests.

Yet the country is waking up, the labourer and the peasant are waking up, agrarian revolution is imminent, to-day independence is appearing in a new shape before millions of foodless and hungry masses. Every day, the fight for independence is getting mixed up with the fight of crores of labourers and peasants for the redress of their daily wants and grievances. Our independence means freedom of bread, freedom of thought and political, economic and social freedom. Independence is now no midnight evil dream of people indulging in fancies; in the lives of crores of men and women independence appears to-day as a most vital truth.

Friends,

To-day, not only in our own country, but all over the world, the freedom of all humanity is in danger. On the streets of Madrid the heroic men and women of Spain are laying down their lives readily in order to free humanity from the savage and ferocious clutches of Fascism. Like a mad man, imperialism is heaping up war materials in order to destroy the human race. Like mad men, Hitler and Mussolini are trying heart and soul to drag the whole world to the path of another world-destroying war—back to a dark, semi-barbarous age. In our country also the reactionary and moderate leaders are making efforts to restrict the struggle for national emancipation. Independence means the attainment by India of complete independence after severing all connection with imperialism, independence of lakhs and

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with imperialism, independence of lakhs and crores of persecuted and exploited men and not self-government. It is only the labourers, peasants and middle-class people, who, by further strengthening the ante-imperialist movement under the leadership of the labouring class, can attain this independence. Friends, arise, awake, soldiers of independence, go forward keeping pace with the rushing times. Quick, quick, quicker still, the enemy is quite near you—there is no time to lose. To-day education, civilisation, culture—everything is in danger. Join the world-wide freedom movement. In towns, villages and fields—over hills and through forests send forth the message, shout out independence, independence. From country to country, from heart to heart and from crores of throats let the cry go forth 'Independence'. By taking our processions and holding meetings, let lakhs of people to-day express unitedly the invincible determination to win independence. Let the noisy streets of towns and the solitary paths of secluded villages ring with but a single message: "Independence."

Victory to Independence Day.

Go forward towards the day of democracy

*Inquilab Zindabad.*

Dock Majdur Union.

Tramway Workers' Union.

Iron and Steel Workers' Union.

*Rabeendra Nath Lahiri* for the petitioner.

*The Officiating Deputy Legal Remembrancer,*  
*Debendra Narayan Bhattacharjya,* for the Crown.

BISWAS J. The petitioners in this case have been convicted under s. 18(1) of the Indian Press (Emergency Powers) Act (XXIII of 1931), and sentenced to three months' rigorous imprisonment each. It is alleged that they were concerned in making, publishing and distributing an unauthorised news-sheet.

Two questions have been argued on behalf of the petitioners. First, it is contended that the document in question, in respect of which they have been charged, is not a news-sheet within the meaning of the Act; and secondly, that, in any case, the sentences passed are much too severe.

As regards the first point, it is to be observed that "news-sheet" has been defined in cl. (6) of s. 2 to mean any document other than a newspaper, containing public news or comments on public news or any matter described in sub-s. (1) of s. 4.

“Newspaper” is defined in cl. (5) of the section to mean any periodical work containing public news or comments on public news. We have read the leaflet in question, and we are satisfied that it comes within the definition of a “news-sheet”. It purports to be an exhortation to the public to strive for freedom or independence. But, in the course of this exhortation, it contains matters which certainly may be described as news in the sense of information on definite events of topical interest. There are no doubt references to matters of historical interest. But that is not all that this leaflet contains. In one passage, for instance, it is stated that an agrarian revolution is imminent. This certainly is imparting news. Then, again, it is said—

The invincible desire of the nation for the attainment of independence did not weaken. . . . The people, disabled and dying through famine, flood and starvation, are again waking up. The invincible desire for the attainment of independence is making the whole country restive, even to-day thousands of young men and women, without trial, are passing the moments that are not in their control behind the prison walls.

Here, again, is a matter which easily comes within the definition of “news”. Further, in the concluding paragraph there is an express reference to the happenings in Spain from which a moral is sought to be drawn for this country. The reference to the events of Spain is undoubtedly a matter of contemporaneous interest, and it can hardly be disputed that it is “news” within the meaning of the Act. In any event, there can be no question that the leaflet is replete with comments on events of topical importance or interest, and in that sense must be regarded as a news-sheet. In this view of the matter, it is not necessary to consider whether or not the leaflet may be brought within the definition on the ground that it also contains matters described in sub-s. (1) of s. 4 of the Act.

If the leaflet is held to be an unauthorized news-sheet, there can be no question on the evidence that an offence under s. 18(1) has been established against the petitioners.

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There remains, therefore, the question of sentence. The learned Chief Presidency Magistrate has treated all the four petitioners as guilty in the same degree. We do not think, however, that this is justified. As against the petitioners, Sham Sul Huda and Mano Ranjan Sur, the only evidence is that they helped in distributing the leaflet, one at a meeting at the Halliday Park and the other at a meeting at the Sraddhânananda Park. It is not shown that there was any connection between these two accused and the other petitioners from before, or in the matter of the preparation or printing of the leaflet in question. We think, therefore, that in their cases the sentence passed is severe, and the ends of justice will be met if the sentence in each case is reduced to the period already served.

As regards the other two petitioners, Mano Ranjan Ray and Abdul Jabbar, it appears that both are members of certain unions and were interested in getting this leaflet printed and circulated. Mano Ranjan's own statement is that he met Abdul Jabbar at the Labour Office and that he took Abdul Jabbar round to the printing works where he acted as an interpreter in order to render the leaflet into Bengali. The order for printing was also given by Mano Ranjan. As regards Abdul Jabbar, he was the man who wanted to have this leaflet printed and he gave the order to print on the final proof copy of the leaflet. We see no reason to interfere with the sentences passed on these two accused. The result is that, subject to the modification we have indicated as regards the sentences on Sham Sul Huda and Mano Ranjan Sur, this Rule is discharged.

The petitioners Mano Ranjan Ray and Abdul Jabbar, who are on bail, will surrender to their bail and serve out the sentences imposed upon them.

HENDERSON J. I agree.

A. C. R. C.

*Sentence modified.*