

APPELLATE CRIMINAL.

Before Mr. Justice Curgenvven.

D. VIRASWAMI NAIDU (FIRST ACCUSED), PETITIONER.*

1929,
August 1.

Indian Arms Act (IX of 1878)—Rules under—Whether consignator or consignee to obtain licence for transporting arms, etc.

Under the Indian Arms Act (XI of 1878) and the rules made thereunder, it is for the consignator and not for the consignee to apply for and obtain a licence for the purpose of transporting arms, ammunition or military stores.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Session of the Bellary Division in Criminal Appeal No. 42 of 1928 preferred against the judgment of the Court of the Joint Magistrate of Hospet in C.C. No. 61 of 1927.

V. K. John for petitioner.

K. N. Ganpati for Public Prosecutor for the Crown.

JUDGMENT.

The petitioner has been convicted under section 19(d) of the Indian Arms Act of transporting a weapon in contravention of a regulation or prohibition issued under section 10 of that Act, and the conviction has been upheld on appeal. The learned Sessions Judge has set forth the relevant facts in paragraph 2 of his judgment and they have not been disputed before me. They show that the petitioner ordered a gun from a dealer in Bombay, ostensibly for an intending purchaser, but in fact upon his own account, and, as the learned Sessions Judge says, the only question is whether his act amounts to the offence of transporting without a licence.

* Criminal Revision Case No. 266 of 1929.

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Rule 24 of the Indian Arms Rules provides for the grant of a licence for the transport of arms, ammunition or military stores, and the form in which it is granted is Form VII. I think it is clear, both from the language of that rule and the contents of the form, that, where arms are to be sent from one place to another, it is for the consignor and not for the consignee to apply for and obtain the licence. Sub-rule 1 (a) of rule 24, for instance, requires that, where arms are consigned from a Presidency Town, the licence must be granted by the Commissioner of Police of that town; and it is evidently the consignor's name and place of business that must appear in columns 1 and 2 of the licence. Further, it is laid upon him to mark legibly upon each packet an account of its contents (condition 3), and condition 4 states that the article should be delivered only to a person lawfully entitled to receive it. From these circumstances, I draw the conclusion that the transporting was done by the dealer in Bombay and was duly covered by licence. Rule 22, which relates also to the transport of arms, authorizes a licensed dealer to transport any reasonable quantities to any person licensed to possess such arms. It appears to me that the petitioner, to comply with this provision, should have held a licence to possess, and if he was found to be without one, he was liable to prosecution, on receipt of the weapon, for possessing it without a licence, but I do not think that the conviction under section 19 (d) can be sustained. I accordingly allow the petition and set aside the conviction and direct that the petitioner be acquitted and released.

B.C.S.
