

REVISIONAL CRIMINAL.

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Before Mr. Justice Dalal.

EMPEROR v. RAM CHAND.*

Act (Local) No. VI of 1912 (United Provinces Prevention of Adulteration Act), sections 4, 12 and 15—Sale of adulterated ghee—Prosecution duly sanctioned, but complaint not lodged within time—Jurisdiction.

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Held on a construction of sections 12 and 15 of the United Provinces Prevention of Adulteration Act, 1912, that a conviction under section 4 was not invalidated by reason of the complaint not having been preferred within the time limited, although, had the accused refused to attend in answer to the summons issued against him, he could not have been prosecuted under section 174 of the Indian Penal Code.

THE facts of this case sufficiently appear from the judgement of the Court.

Dr. N. C. Vaish, for the applicant.

The Assistant Government Advocate (Dr. M. Waliullah), for the Crown.

DALAL J. :—The applicant Ram Chand has been convicted under section 4 of the United Provinces Prevention of Adulteration Act (VI of 1912) for selling adulterated ghee. His prosecution was duly sanctioned as required by section 12 of the Act, but a complaint was not lodged till more than thirty days after the sanction by the Health Officer. The argument here was that the trial court had no jurisdiction to proceed with the prosecution. Section 15 lays down that no summons shall issue for the attendance of any person accused of an offence under section 4, unless the same is applied for within thirty days from the date upon which the order of consent referred to in section 12 shall have been

*Criminal Revision No. 95 of 1928, from an order of W. C. Dibble, District Magistrate of Muttra, dated the 6th of January, 1928.

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made or given. In my opinion this section does not deal with the jurisdiction of the court. Jurisdiction arises under section 12 on the order or consent in writing of the Health Officer. If the applicant had disobeyed the summons, he could not have been prosecuted under section 174 of the Indian Penal Code. When, however, he appeared and stood his trial, section 15 is not so worded as to deprive the court of jurisdiction. It only prohibits the issue of summons, but not the taking place of a trial.

It was further argued that the fine of Rs. 100 was excessive. I do not think so, having regard to the frequency of this kind of offence. I dismiss this application.

Before Mr. Justice Dalal.

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EMPEROR v. CHIRANJI LAL.*

Criminal Procedure Code, section 108—Act No. XLV of 1860 (Indian Penal Code), section 153A—Proof of one solitary act alone not sufficient for section 108.

A person who is found on one occasion only circulating notices which may have the effect of promoting enmity between classes may possibly be prosecuted under section 153A of the Indian Penal Code, but he cannot be proceeded against under section 108 of the Code of Criminal Procedure.

THE facts of this case sufficiently appear from the judgement of the Court.

Mr. *Shambhu Nath Seth*, for the applicant.

The Assistant Government Advocate (Dr. *M. Waliullah*), for the Crown.

DALAL, J. :—In my opinion Chiranji Lal was wrongly proceeded against under section 108 of the Code of Criminal Procedure, when he ought to have been

*Criminal Revision No. 261 of 1928, from an order of P. C. Plowden, Sessions Judge of Bareilly, dated the 30th of November, 1927.