

specified part. For these reasons I accept the application, set aside the order of the court below, and direct that the applicant be acquitted and that the fine if paid be remitted.

1931
 MUHAMMADI
 &
 MUNICIPAL
 BOARD.
 AGRA.

Before Sir Shah Muhammad Sulaiman, Acting
 Chief Justice.

EMPEROR v. PUTTU LAL.*

1931
 Mar, 26.

Excise Act (Local Act IV of 1910), section 64 (c)—Breach of condition of licence—Closing shop during selling hours.

Where a general condition in the licence for a liquor shop fixed the hours for opening and closing of the shop and enjoined that the shop should not be kept open at any other hour, it was held that the object of the condition was to prevent the sale of liquor outside the fixed hours, and that it could not be interpreted as meaning that at no time between the two specified limits the shop should be closed, even temporarily.

The applicant was not represented.

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

SULAIMAN, A. C. J. :—This is a reference against an order convicting the accused under section 64(c) of the Excise Act (Act IV of 1910), for having broken one of the conditions of his licence.

When the Excise Inspector went to inspect his shop, he found it closed. When questioned later, the accused alleged that he had gone to a warehouse to bring four gallons of liquor which were entered in his register. The learned Magistrate infers that it was not a case of temporary absence, but of the closing of the shop on account of picketing. He accordingly convicted the accused and sentenced him to pay a fine of Rs. 50. The Sessions Judge has recommended that either the conviction be set aside or the fine be reduced to Rs. 5.

The fourth general condition in the licence applicable to all licences is in the following terms: "The orders for the opening and closing of the shops have

*Criminal Reference No. 228 of 1931.

