

REVISIONAL CRIMINAL.

Before Justice Sir Barjor Jamshedji Dalal.

EMPEROR *v.* RAGHUBAR DAYAL AND ANOTHER.*

1930
November,
17.

Indian Penal Code, section 506—Criminal intimidation—Picketing—Criminal Procedure Code, sections 155(3) and 170—Power of police to prosecute in non-cognizable case.

The accused persons gave a notice to a shopkeeper requiring him to execute an agreement not to import for one year any foreign cloth for sale at his shop and intimating that on his failure to do so his shop would be picketed. At that time picketing was not an offence. The proposed agreement did not prohibit the sale of the foreign cloth already in stock. *Held* that the accused were rightly convicted of criminal intimidation under section 506 of the Indian Penal Code. Prohibition from importing for one year the articles with which the shop dealt would, in the ordinary course of business, cause injury to the property of the shopkeeper, and the threat came within the definition of criminal intimidation.

Under section 155(3) of the Criminal Procedure Code the police can not only investigate a non-cognizable offence by the order of a Magistrate, but thereupon can also prosecute the case under section 170.

Mr. *Nanak Chand*, for the applicants.

The Assistant Government Advocate (Dr. *M. Wali-ullah*), for the Crown.

DALAL, J. :—Mr. *Nanak Chand* took upon himself the task of satisfying the court that the action of the applicants did not amount to an offence under section 506 of the Indian Penal Code. The first part of that section runs as follows:—“Whoever commits the offence of criminal intimidation shall be punished with imprisonment . . .” and the offence of criminal intimidation is defined in section 503 as “whoever threatens another with any injury to his person, or reputation or property, . . . with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do . . . as the means of avoiding the execution

* Criminal Revision No. 499 of 1930, from an order of Kashi Nath, Sessions Judge of Bulandshahr, dated the 4th of July, 1930.

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of such threat, commits criminal intimidation." The applicants were desirous of preventing the dealers in cloth in the market of Sikandrabad in the district of Bulandshahr from importing any more foreign cloth for sale, so, in the middle of May last, the applicant Ratar Lal served on a shopkeeper of the name of Abdul Sattar a notice Ex. B. along with an agreement Ex. C. The shopkeeper was directed to execute the agreement Ex. C. and in default the threat was held out that his shop would be picketed. Mr. *Nanak Chand* drew my attention to the fact that at that time picketing was not an offence. The proposed agreement was to the effect that the shopkeeper would not import any more foreign cloth for sale at his shop for at least one year and would pay a fine of Rs. 10, presumably to the authority issuing notice, if he failed to carry out this agreement. The notice and the agreement should be taken jointly. The applicants must have desired to cause alarm to Abdul Sattar by picketing, otherwise the threat of picketing would have been no threat at all. They must have known that Abdul Sattar would be alarmed at the suggestion of picketing and would therefore agree to abide by the terms submitted by them to him to carry on his business. It was argued that there would be no loss to the property of Abdul Sattar when he was graciously permitted by the applicants to sell the foreign cloth which he did possess in the shop and all he was called upon to agree to was not to import foreign articles. Business is not carried out in the manner possibly suggested by the learned counsel that a shopkeeper imports a certain number of articles, sells them and then imports a second number of articles after the first set has been sold. The better classes of people in these provinces are notoriously ignorant of business; so one can understand how Mr. *Nanak Chand* came to advance such an argument. Business consists of constant purchase and sale. There may be certain articles of larger utility and demand which have to be more constantly

imported and a business would come to a standstill if even a small shop is prohibited from importing articles with which it deals for a period of one year. Taking the common business point of view I have not the slightest doubt that the threat by the applicants amounted to injury to the property of Abdul Sattar. There is no denial of such a threat being offered. The conviction was therefore fully justified.

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Mr. *Nanak Chand* referred to certain antecedent facts. There was decided reluctance on the part of the Magistrate to grant bail for a bailable offence. In my opinion it is unfortunate that this should have happened. Also the applicants should have been granted a more reasonable opportunity of coming to this Court to obtain a transfer of the case for hearing. On the 29th of May, the Magistrate was requested to postpone the trial under section 526(8) of the Code of Criminal Procedure to enable the applicants to approach this Court and the time granted was up to the 10th of June. I think that the Magistrate ought to have noticed that there were only three days, after the 29th of May, during this period when this Court was open. For that reason it would have been advisable to grant a second application for postponement.

I do not think that the complaint against the Sub-Inspector of prosecuting the case when it was a non-cognizable one is justified under the law. It was admitted by Mr. *Nanak Chand* that under section 155(3) of the Code of Criminal Procedure the Sub-Inspector was empowered to investigate this non-cognizable offence as the District Magistrate had directed him to do so. His argument was that the authority of the police terminated with the investigation and that there was no authority to prosecute. I read the provisions of chapter XIV of the Code of Criminal Procedure differently. Section 170 of that Code lays down: "If, upon an investigation under this chapter, it appears to the

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officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed". I am of opinion that investigation under this chapter would include investigation held under section 155(3) under the orders of a Magistrate. It is admitted that the Sub-Inspector did not send the applicants to the court having jurisdiction in custody but waited till the Magistrate himself had issued bailable warrants before arresting the applicants. I was not told that bail was actually tendered and the Sub-Inspector refused to accept it. The statement here was that the applicants desired information as to the offence and that such information was not given to them. I think that the applicants must have known that the warrants were bailable, or if they did not they ought to have put this pertinent question instead of making an inquiry about a matter which they ought to have discovered from the court having jurisdiction.

The sentence is of four months' rigorous imprisonment. As, however, in my opinion the applicants were unreasonably detained in custody when they ought not to have been, I reduce the sentence in each case to imprisonment for two months; otherwise the revision application is dismissed. The applicants, if on bail, shall surrender to undergo the balance of their sentence. Mr. *Nanak Chand* has made a prayer to the court that the imprisonment may be simple. I direct accordingly.