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inadequate. . . . In the present case there was a complaint made by Reoti which is shown to have been false, and on that complaint proceedings were instituted in the sessions court for an offence punishable with transportation for life. The offence of Reoti, therefore, came under the second part of section 211 of the Indian Penal Code. Taking all the facts into consideration we enhance the sentence of Reoti to one and a half years' rigorous imprisonment under section 211 of the Indian Penal Code and to one and a half years' rigorous imprisonment under section 193 of the Indian Penal Code. Those sentences will be consecutive and not concurrent. We sentence Bharat Singh and Roshan Singh under section 193 of the Indian Penal Code to two years' rigorous imprisonment each, in enhancement of the sentence already undergone. Warrants will issue for the arrest of these accused.

Before Mr. Justice King.

EMPEROR v. KIFAYAT-ULLAH KHAN.*

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 August, 30.

Arms Act (XI of 1878), sections 4 and 19(f)—Ammunition—Patakhas—Explosive—Explosives Act (IV of 1884) Rules, rule 138(6).

The general words "other explosive or fulminating material," in the definition of ammunition in section 4 of the Arms Act, must, according to the well recognized rule of "*ejusdem generis*", be interpreted in the light of the foregoing examples of explosives. Accordingly the definition must be deemed to include only such explosive or fulminating material as could be used for any military purpose or in particular for fire-arms or torpedos or war-rockets or for mining or blasting. As *patakhas* or crackers, customarily used by children at the time of *Shab-i-Barat*, are quite useless for such purposes, they are not ammunition within the meaning of the Arms Act, and their possession without a license cannot sustain a conviction under section 19(f) of the Act.

It is doubtful whether the possession of *patakhas* without a license amounts to any offence under the Explosives Act, 1884, or the rules, e.g., rule 138(6), made thereunder.

*Criminal Reference No. 565 of 1930.

The parties were not represented.

KING, J. :—One Kifayat-ullah Khan was convicted under section 19(f) of the Indian Arms Act, 1878, for being in possession of 340 *patakhās* without a license. The learned Sessions Judge recommends that the conviction be quashed.

The *patakhās* are $1\frac{1}{2}$ " to 2" in diameter. They contain a very small quantity of chlorate of potassium mixed with sulphide of arsenic, together with small pieces of *kankar*, wrapped and rolled in several layers of paper so as to form a small ball. When thrown on the ground they explode with a report. These *patakhās* or crackers are customarily used by children at the time of *Shab-i-Barat* just as crackers of a rather different kind are generally associated with Christmas festivities. Hitherto no license has been required even for their sale, much less for their possession, probably because they are regarded as mere playthings. They are said to be sold at the rate of eight for one pice.

It seems *prima facie* astonishing that such insignificant crackers could be regarded as "ammunition" within the meaning of the Arms Act. "Ammunition" is defined in section 4 of the Act as including "all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur and other explosive or fulminating material . . ."

The Magistrate argues that *patakhās* are "explosives," as they do explode on percussion, and therefore they must be "ammunition." I do not agree to this view. The general words "other explosive or fulminating material" must according to the well recognized rule of "*ejusdem generis*" or "*noscitur a sociis*", be interpreted in the light of the foregoing examples of explosives. According to this rule of interpretation I hold that the definition includes only such explosive or fulminating material as could be used for any military purpose or in particular for fire-arms or torpedos or war-

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rockets, or for mining or blasting. As *patakhas* are quite useless for such purposes I hold that they are not "ammunition" within the meaning of the Act.

It is worth noting that it has been held by a Bench of the Madras High Court so long ago as 1882 in *Queen v. Suppi* (1) that the manufacture or possession of fireworks without a license is not prohibited by section 5 of the Arms Act. The "rockets" referred to in the definition mean war-rockets. This latter point is supported by the Indian Arms Rules, 1924. Wherever rockets are referred to they are expressly called "war-rockets" e.g., rules 5, 23 and 30. This ruling still holds good so far as I am aware. It was distinguished in *Queen-Empress v. Khasim Sahib* (2), but not dissented from. Licenses for the manufacture, possession or sale of fireworks are granted under the Indian Explosives Act, 1884, and not under the Arms Act. I am clearly of opinion that the conviction under section 19(f) of the Arms Act, cannot be sustained.

The Magistrate suggests that if the conviction under section 19(f) of the Arms Act be set aside, the accused might be convicted under rule 138(6) of the Indian Explosives Rules, 1914. It is however at least open to doubt whether the accused is guilty even of any offence under the Explosives Act or the rules made thereunder. It was held by a Bench of the Punjab Chief Court in *Emperor v. Bansidhar* (3) that no license for the sale of *patakhas* is required under the Explosives Act, as *patakhas* are not fireworks. I do not wish to express any opinion on this point, as it clearly would not be fair in revision to alter a conviction under the Arms Act unless a conviction under the latter Act were obviously correct and unless it were certain that the accused had not been prejudiced by being charged under the Arms Act.

I accept the reference, set aside the conviction and sentence and order that the fine if paid be refunded.

(1) (1882) I.L.R., 5 Mad., 159. (2) (1884) I.L.R., 8 Mad., 202.

(3) (1909) 5 Indian Cases, 911.