

## APPELLATE CRIMINAL.

*Before Mr. Justice Muhammad Raza and Mr. Justice  
A. G. P. Pullan.*

1930  
December,  
17.

KING-EMPEROR (COMPLAINANT-APPELLANT) v. RAM  
CHANDER MUTSADDI (ACCUSED-RESPONDENT).<sup>\*</sup>

*Indian Railways Act (IX of 1890), section 128—Sitting in front  
of a railway train and preventing its further progress,  
whether amounts to criminal trespass.*

It is an illegal act to sit in front of a railway train and to prevent its further progress even as a protest against the railway company and the person who does so, commits an offence under section 128 of the Indian Railways Act. His act is unlawful and amounts to criminal trespass as he undoubtedly obstructs the rolling stock of the railway.

The Government Advocate (Mr. *H. K. Ghosh*), for the Crown.

Mr. *H. D. Chandra*, for the respondent.

RAZA and PULLAN, JJ. :—This is an appeal filed by the Local Government against the acquittal of one Ram Chandra Mutsaddi by the learned Sessions Judge of Bara Banki who set aside the conviction of this man by a Railway Magistrate of the first class for an offence under section 128 of the Indian Railways Act (IX of 1890).

The facts of the case are that this man was travelling by train on the Bengal and North-Western Railway. This train started from Cawnpore on the day of a *mela*. It is conclusively proved that there was insufficient accommodation for the passengers. The accused Ram Chandra Mutsaddi was a passenger from Cawnpore. At an early stage in the journey he began to protest against over crowding. He pulled the communication cord five times and thereby stopped the train. He stated that the reason was that he was travelling on an intermediate-class ticket, and that his carriage was overcrowded with third class passengers, and he was able to prove that in a carriage licensed to hold twenty-two passengers there

<sup>\*</sup>Criminal Appeal No. 462 of 1930, against the order of Aprakash Chandra Bose, Sessions Judge of Bara Banki, dated the 22nd of August 1930.

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SADDI.*Raza and  
Pullan, JJ.*

were no less than fifty-two passengers. So far it cannot be said that the accused acted improperly, although there is some question whether he was technically within his rights in pulling the communication cord and stopping the train merely on the ground of over-crowding. When however the company refused to put on extra carriages and refused to reduce the number of persons in the carriage so as to provide decent accommodation for the passengers he carried his protest further. The vacuum brake had in the meantime been disconnected or broken and it was impossible for him any longer to stop the train in that manner. So after warning the authorities including the engine driver he sat down in front of the engine and commenced playing some musical instrument. He only allowed himself to be removed when he was given a promise that the vacuum brake would be replaced and he then took his seat in the train. He delayed the train in all some eighty minutes. We have no doubt that the accused committed an offence under section 128 of the Railways Act. His act was unlawful because it amounted to a criminal trespass and he undoubtedly obstructed the rolling stock of this railway. He is therefore liable to punishment. But in assessing the amount of the punishment we must consider that the accused was making a protest in the interest of the public against the gross mal-administration of a railway company which it is said habitually provides insufficient accommodation for its passengers. We find that the accused went to prison on the 15th of May on the order of the Magistrate and was released on bail by the Sessions Judge on the 16th of May. Unfortunately it appears that his independent spirit has led him back to jail and he is now detained in prison at Fyzabad for some other offence. This however is not a matter which we need consider in awarding what we think to be the proper sentence for the offence which he committed under the Indian Railways Act. In our opinion the sentence of one day's imprisonment which he has undergone is sufficient to demonstrate the fact that it is an illegal act

to sit in front of a railway train and to prevent its further progress, even as a protest against the railway company.

We accordingly allow this appeal, restore the conviction passed by the learned Magistrate and impose a sentence of so much simple imprisonment as he has already undergone.

*Appeal allowed.*

### APPELLATE CIVIL.

*Before Mr. Justice Muhammad Raza and Mr. Justice  
A. G. P. Pullan.*

1930.  
December,  
17.

BHAGWAN BAKHSH SINGH (PLAINTIFF-APPELLANT) v.  
DRIGBIJAI SINGH AND OTHERS (DEFENDANT'S-RESPONDENTS).\*

*Muhammadian law—Hindu converted to Muhammadian faith—No proof of renouncing Muhammadian religion but observance of certain Hindu ceremonies proved—Inheritance in the family, whether to be according to Muhammadian law—Caste Disabilities Removal Act (XXI of 1850), scope and application of—Change of religion—Law governing succession—Hindu, if entitled to succeed to a converted Muhammadian's estate—Right of inheritance with power of transfer—No provision made for ultimate devolution of property—Presumption of absolute estate in the property inherited.*

A person, who was born in the Muhammadian faith and has never been proved to have adopted any other religion, must be held to be a Muhammadian. Where, therefore, a person and his ancestors for four generations were Muhammadans and he never abjured that faith, the court would not be justified in finding that the Muhammadian law of inheritance did not apply to his family because like many Muhammadans whose families were originally Hindus he observed certain Hindu ceremonies.

\*First Civil Appeal No. 109 of 1929, against the decree of Babu Jagdamba Saran Additional Subordinate Judge of Hardoi, dated the 7th of October, 1929.