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that that view should be followed also in the present case.

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We, therefore, hold that the plaintiff, who claims to be the true owner of the promissory note in the present case, cannot sue on the basis of the promissory note, which is in favour of the alleged *benamidar*, Ram Dass.

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and Nana-  
vutty, J.J.

The result is that we uphold the judgment and decree of the lower Court and dismiss this application for revision with costs.

*Application dismissed.*

## APPELLATE CRIMINAL

*Before Mr. Justice G. H. Thomas*

MUNSHI SINGH (APPELLANT) v. KING-EMPEROR  
(COMPLAINANT-RESPONDENT)\*

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*Indian Penal Code (Act XLV of 1860), sections 124A and 153A—Sedition and promoting enmity and hatred between different classes—Sentence to be passed, test of—Violent nature of speech and intention of accused to be considered.*

The test as regards sentence in cases of sedition and promotion of enmity and hatred between different classes of His Majesty's subjects should be whether the speech was a violent one and whether the intention of the accused was to excite people to commit violence. The Union of the East Indian Railway is an important body, and to exhort people of that Union and to bring in the examples of Soviet Russia and Ireland, to run down the zamindars and taluqdars of Oudh, are very serious charges and deserve a severe sentence. *Ram Saran Das v. Emperor* (1), and *Indra, Professor v. Emperor* (2), referred to.

Mr. Mahabir Prasad, for the appellant.

The Government Advocate (Mr. H. S. Gupta), for the Crown.

THOMAS, J.:—In this case the appellant Munshi Singh has been convicted by the learned District

\*Criminal Appeal No. 278 of 1934, against the order of Mr. A. Monro, C.I.E., I.C.S., District Magistrate of Lucknow, dated the 24th of July, 1934.

(1) (1930) A.I.R., Lah., 892.

(2) (1930) A.I.R., Lah., 870.

Magistrate of Lucknow under sections 124A and 153A of the Indian Penal Code, and sentenced to two years rigorous imprisonment under each section, the sentences to run concurrently.

The charge against the accused was "that you on the 14th day of April, 1934, at Charbagh, Lucknow, delivered the speech of which the notes are exhibit 3 at a meeting of the Railway Union, and by the said speech you tried to bring into hatred and contempt the Government established by law in India, and thereby committed an offence punishable under section 124A of the Indian Penal Code: and

"Secondly, that you on the 14th day of April, 1934, at Charbagh, Lucknow, delivered a speech of which the notes are exhibit 3 at a meeting of the Railway Union, and by the said speech, you tried to promote feelings of enmity and hatred between the capitalist and zamindar classes and the labour and tenants classes of His Majesty's subjects, and thereby committed an offence punishable under section 153A of the Indian Penal Code."

The case for the prosecution is that on the 14th of April, 1934, the accused made a speech at a meeting of the Railway Union at Charbagh Lucknow. Exhibit 1 is the shorthand notes and exhibit 3 is the longhand notes of the speech delivered by the accused, which was taken down by Inspector Hamid Husain.

The complaint in this case was filed by the Superintendent of Police of Lucknow under the orders of the local Government on the 21st of May, 1934, and the order of the local Government directing the Superintendent of Police of Lucknow to file the complaint is dated the 16th of May, 1934. The case is a very simple one. The evidence of P. W. 1, Inspector Hamid Husain, shows that on the 14th of April, 1934, he was deputed to take down shorthand notes at the meeting

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of the Railway Union at Charbagh. Munshi Singh made a speech at that meeting and it was taken down in shorthand by the witness. He swears that he took down the speech word by word. He also states that when he had finished writing the notes of the speech, he read it to two witnesses, who were present at the meeting and took their signatures on the notes. The witnesses are Ram Kishan (P. W. 3) and Ganesh Prasad (P. W. 4). It is not necessary for me to deal with this question at length, for it was never contested at any stage by the accused or his learned Counsel that the shorthand notes, taken by the police officer, were inaccurate. The only question for decision in this appeal is whether the said speech made by the accused makes him liable for punishment for offences under sections 124A and 153A of the Indian Penal Code. I may here note that the accused has refused to make any statement, and has not produced any evidence in defence.

On the 23rd of July, 1934, when questioned by the learned District Magistrate whether he made the speech exhibit 3 at the meeting of the Railway Union at Charbagh on the 14th of April, 1934, he replied that "I have no vakil today, therefore I refuse to make a statement. I have been on hunger strike for 16 days and my brain does not function."

The learned Counsel for the appellant has read the whole speech in vernacular, and I have also carefully read the translation of the speech into English. The learned Counsel for the appellant has very frankly, and in my opinion rightly, admitted that there are certain portions in the speech which make the accused liable for an offence under section 124A of the Indian Penal Code, but his contention is that the speech, taken as a whole, does not suggest any violence nor shows any attempt to bring into hatred or contempt the Government established by law in British India, or that it

promotes, or attempts to promote, feelings of enmity or hatred between different classes of His Majesty's subjects. I may here quote a few passages from the speech of the accused, which will go to show whether the intention of the accused was to bring or attempt to bring into hatred, contempt, or excite, or attempt to excite, disaffection towards His Majesty's Government, or to promote, or attempt to promote feelings of enmity or hatred between different classes of His Majesty's subjects:

"The present Government is endeavouring to tread down the workers . . . In Russia the Government is of the workers. The condition in that country was worse than what yours is today. They fought for their rights. They dug their graves before they went out to demand bread . . . The poor are suffering starvation and when they are sunk in great misery, they realise that it is better to die quickly than to die gradually. Such is the condition of the workers and peasants. I feel sad when I see the condition of the peasants of Oudh. The children of peasants and workers in villages die in great anguish from the heat of May and June, and they die during the winter of December and January from lack of clothes. What has the Government of this country done? The happenings in Bihar are fresh in our minds. What has the Government which possesses lakhs and crores of rupees done for Bihar? Just ask it, why does it rule here? We should not rest until we have effaced this Government. We do not want that such a Government should exist here. We are prepared to fight and shall continue to fight . . . Zamindars and taluqdars take *begar* and *nazrana* and "death lean", which means that after the death of his father a son inherits all his property, but

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under the law framed by the existing Government the son inherits everything except the fields . . . Such is the condition to which we have been reduced by our relentless Government, taluqdar and zamindars. The foundation of capitalism has already shaken. If we stand upon our own legs, sooner or later their very name will be effaced. The present Government is doing nothing for workers and peasants. It sides with the capitalists. The Government of this country is a capitalist one and we do not wish it to remain here . . .

“Today we find that high officials, who are paid four thousand and twenty-one thousand, are plundering India’s wealth for nothing. Ask them why they take such huge salaries. They suck the blood of the poor peasants. Ask the Viceroy, who is drawing a salary of Rs.21,000, what he has done for the *kisans* of Bihar. Ask him what he has done, today, for the poor agriculturists. He only offers sympathy; but mere sympathy is of no avail. I would like to say that we do not want to invite such enemies into our homes. We do not want to allow these plunderers, who have forced their way into our home, to linger here . . .

“Look at the oppression of the merciless tyrants. Look at the capitalists and the taluqdar. There is no place in the world where such oppression is practised as in Oudh . . . The zamindars and taluqdar cause even the hair on the body of women and children to be pulled out . . . Do you not see what the condition of Russia and Ireland is today? They were able to obtain their rights only when they were prepared to die . . . The responsibility for what happened in Ajodhya, today, lies also on the Government, which is always at the bottom of such incidents . . . I am much pained to see that

your worker M. N. Roy is, today, rotting in the Bareilly jail . . .”

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I have considered the speech from the point of view of seeing whether the internal evidence of the speech itself proves a successful or an unsuccessful attempt to bring into hatred, or contempt, or excite disaffection towards the Government established by law in British India. It is clear from the speech that every calamity or evil or misfortune that falls to the country and suffering by the people is imputed to the Government, which is also accused of hostility and indifference to the welfare of the people. Reading the speech as a whole, I have not the slightest doubt that the prosecution has successfully proved that the accused is guilty under sections 124A and 153A of the Indian Penal Code. In my opinion the speech was not legitimate, and the intention of the accused was to bring the Government into hatred, or contempt and excite, or attempt to excite, disaffection towards His Majesty or the Government established by law in British India. It is also clear that it was further the intention of the accused to promote, or attempt to promote, feelings of enmity and hatred between the *kisans* and the zamindars and taluqdars of Oudh.

It is next argued by the learned Counsel for the appellant that the sentence is unduly severe, and in support of his contention he has relied on the case reported in *Ram Saran Das v. Emperor* (1). In this case the accused was sentenced to three years' rigorous imprisonment, but on appeal the sentence was reduced to four months. It was held in that case that, "where the speaker in his speech does not in terms advocate violence in any shape and there is nothing in the speech which might by implication or innuendo suggest its use, a heavy sentence is not called for."

(1) (1930) A.I.R., Lah., 892.

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The second case relied on by the learned Counsel for the appellant is also to be found in the same report *Professor Indra v. Emperor* (1). The sentence in this case was reduced on appeal to 2½ months, but the judgment shows that, in the opinion of the learned Judge who decided that case, the speech was mild and the offence a technical one. On the other hand there are cases in this Court where the Court has refused to interfere in a sentence of two years passed against the accused. In my opinion, the test of such cases should always be whether the speech was a violent one and whether the intention of the accused was to excite people to commit violence. The Union of the East Indian Railway is an important body, and to exhort people of that union and to bring in the examples of Soviet Russia and Ireland, to run down the zamindars and taluqdars of Oudh, are very serious charges. I am, therefore, not prepared to interfere in this appeal on the question of sentence.

I accordingly uphold the convictions and sentences passed upon the accused and dismiss the appeal.

*Appeal dismissed.*

## APPELLATE CRIMINAL

*Before Mr. Justice Bisheshwar Nath Srivastava and  
Mr. Justice E. M. Nanavutty*

RAMESHWAR (APPELLANT) v. KING-EMPEROR  
(COMPLAINANT-RESPONDENT)\*

*Indian Penal Code (Act XLV of 1860), section 307—Murder—Attempt to murder, essential elements of the offence—Injury capable of causing death, if essential—Acting with necessary intention or knowledge, whether sufficient—Intention, how may be inferred—Evidence Act (I of 1872), section 105—Right of private defence, plea of—Burden of proof—Presumption against accused.*

\*Criminal Appeal No. 425 of 1934, against the order of Mr. Raghubar Dayal, I.C.S., Sessions Judge of Unao, dated the 8th of December, 1934.

(1) (1930) A.I.R., Lah., 870.

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