

The result, therefore, is that the appeal will be dismissed and the proceedings will be continued from the stage at which they were left.

WORT, J.—I agree and have nothing to add.

*Appeal dismissed.*

1927.

KARI GOPE  
v.MAHANTH  
MANMOHAN  
DAS.

## REVISIONAL CRIMINAL.

*Before Mullick, A.C.J., and Wort, J.*

MAHANTH BABA BADRI DAS

v.

KING-EMPEROR.\*

1927.

May, 13.

*Police Act, 1861 (Act V of 1861), sections 30, 30A and 32—Licence for procession subject to conditions—breach of conditions by processionists—liability of licensee.*

Where an application for a licence to take a procession through the town of Patna was granted subject to the condition that no member of the procession carried a lathi or sword,

*Held*, that it was the duty of the licensee to see not only that no member of the procession was carrying a lathi at the time when the procession started but also that no one subsequently joined the procession with a lathi.

The mere fact that section 30A confers upon certain officers the power to stop a procession which violates the condition of a licence does not relieve the licensee from his duty of strictly complying with the terms of the licence.

The facts of the case material to this report are stated in the order of Mullick, A. C. J.

*S. Sinha* (with him *S. P. Varma* and *D. P. Varma*), for the petitioner.

*Sultan Ahmed*, Government Advocate, for the Crown.

MULLICK, A. C. J.—The petitioner has been sentenced to a fine of Rs. 100 under section 32 of

\*Criminal Revision no. 106 of 1927, against an order of G. E. Owen, Esq., i.c.s., District Magistrate of Patna, dated the 2nd February, 1927, confirming an order of Mr. Fazle Rahman, 2nd Class Magistrate, Patna City, dated the 14th December, 1926.

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MAHANTH  
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"  
KING-  
EMPEROR  
MULLICK,  
A.C.J.

the Police Act (Act V of 1861). It is admitted that the petitioner took out a license for a procession to proceed from Bakarganj to Patna City, one of the conditions of which was that no member of it was to carry a lathi or a sword. The Inspector of Police joined the procession at Muradpur which is some distance from the starting point and found that some of its members were carrying swords and doing lathi play. He asked the petitioner to stop the lathi play but the petitioner made some unsatisfactory reply in the vernacular of which the English translation in the record is "they would play".

It is urged on behalf of the petitioner that he was only responsible for seeing that no member of the procession carried a lathi at the time the procession started and that he was not called upon to control those who joined it on the way.

In my opinion that is not a correct view of the law. The object of a license under the Police Act is to ensure the preservation of public order and clearly the licensee must undertake the duty of maintaining order throughout the course of the procession. He takes the risk, as he must do, of persons joining the procession on the way and of circumstances arising which will require him to compel them to conform to the terms of the license. He cannot be heard to say that they joined without his leave and authority and that he was in no way responsible for them. If they get out of hand he should break up the procession or ask the assistance of the police.

But here the petitioner declined to assist the police and merely said that the lathi play would go on. In my opinion the inference is irresistible that the lathi players were members of the petitioner's assembly and that they were contravening the terms of the license with his permission if not under his direct orders. The conviction and sentence will therefore be affirmed and this application dismissed.

The police might no doubt have declared the procession to be an unlawful assembly and called upon it to disperse but because they did not exercise that power the petitioner is not relieved from his duty.

WORT, J.—I agree. It has been argued that by reason of the provisions of section 30A of the Police Act, which gives Magistrates, District Superintendents and Inspectors of Police power to stop any procession which violates the conditions of a license, the licensee is thereby excused from controlling the persons who may have joined the procession and over whom the licensee states he has no control. This, however, is clearly fallacious. The section referred to gives the power to the officers mentioned to stop a procession in spite of the procession having been licensed, and thus gives them a power which they otherwise would not have in law as already indicated. This does not excuse a licensee from strictly complying with the conditions of his license, and, in the view which I take of the facts of this case and of the law, the conditions of the license were broken and the licensee was, therefore, properly convicted.

1927.

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MAHANTH  
BABA  
BADRI DAS  
v.  
KING-  
EMPEROR.  
  
MULLICK,  
A.C.J.

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## APPELLATE CIVIL.

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*Before Ross and Kulwant Sahay, JJ.*

JAGDIP SINGH

v.

FIRANGI SINGH.\*

1927.

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May, 18.

*Stamp Act, 1899 (Act II of 1899), section 36—document admitted after objection, whether admissibility can be challenged subsequently.*

Section 36 of the Stamp Act 1899 which enacts—

Where an instrument has been admitted in evidence such admission shall not, except as provided in section 61, be called in question at any

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\*Appeal from Original Decree no. 227 of 1924, from a decision of Babu Ashutosh Mukerjee, Subordinate Judge of Patna, dated the 27th August, 1924.