

## APPELLATE CRIMINAL.

*Before Mr. Justice Broadway and Mr. Justice Martineau.*

THE CROWN—Appellant,

*versus*

PURAN SINGH—Respondent.

Criminal Appeal No. 632 of 1922.

*Punjab Excise Act, I of 1914, section 24 (3), and Excise Manual, Vol. I, section 407—possession of country liquor exceeding one seer by accused at a place other than that authorised by his license.*

*Held*, that section 407 of Vol. I of the Excise Manual, empowers a license-holder to possess country liquor to any extent on the licensed premises, but does not entitle him to possess more than the prescribed amount elsewhere, and that that amount is fixed at one seer—*vide* Punjab Government Notification No. 141-A., dated 1st February 1914.

*Gokal Chand v. Crown* (1), referred to.

*Appeal from the order of W. de M. Malan, Esq., Sessions Judge, Jhelum, dated the 23rd May 1922, acquitting the respondent.*

D. C. RALLI, Assistant Legal Remembrancer, for Appellant.

B. N. KAPUR, for Respondent.

The judgment of the Court was delivered by—

BROADWAY J.—One Puran Singh, son of Ganga Singh, a licensed retail vendor of country liquor, was, on the evening of the 19th July 1921, found in possession of a wooden case containing 8 bottles of country liquor at Dhudial Railway Station. His home is at Dhudial but his licensed liquor shop is at Said Kasran. He was convicted of an offence under section 61 of the Excise Act and sentenced to pay a fine of Rs. 500, or in default undergo 6 months' imprisonment.

An appeal by him to the Sessions Court proved successful. The learned Sessions Judge did not apparently come to any definite decision on the merits of the case, but accepted the appeal on the ground that as Puran Singh was a licensed vendor of country

(1) 18 P. R. (Cr.) 1917.

liquor, he was entitled to be in possession of such liquor at any place without any limit as to quantity. This conclusion he arrived at on the provisions of section 407 of volume I of the Excise Manual.

The Government has appealed against the acquittal on the ground that the view taken by the learned Sessions Judge of the law applicable to the case is erroneous. In our opinion the appeal must succeed. Section 407 of Vol. I of the Excise Manual cannot, and does not, override the provisions of the Excise Act and the learned Sessions Judge has entirely overlooked the provisions of section 24 (3), which are as follows :—

A licensed vendor shall not have in his possession at any place, *other than that authorised by his license*, any quantity of any excisable article in excess of such quantity as the Local Government has under section 5 declared to be the limit of sale by retail except under a permit granted by the Collector in that behalf.

In the case of country liquor this quantity has been fixed by the Local Government at one seer by Punjab Government Notification No. 141-A., dated 1st February 1914. Admittedly if Puran Singh can be held to have been in possession of the case of 8 bottles, he has exceeded this limit and has committed the offence of which he was convicted. We would note that *Gokal Chand v. Crown* (1) was applicable to this case and the learned Sessions Judge should have followed it.

Section 407 aforesaid would empower a licenseholder to possess country liquor to any extent on the licensed premises, but does not entitle him to possess more than the prescribed amount elsewhere.

We therefore accept the appeal and setting aside the order of the learned Sessions Judge return the appeal to him for a decision on the merits.

A. N. C.

*Appeal accepted.*