

Sessions Judge in the course of his judgment stated that "this man seems not to have played so prominent a part as the other accused". Under these circumstances I do not think that it would be in the interests of justice to inflict a greater punishment upon him than has been imposed upon the other petitioners before us, and therefore I do not think that he should be ordered to undergo the unexpired portion of his term of imprisonment. I would accordingly, while maintaining the conviction, reduce his sentence to the period already undergone, and direct that his bail bond be discharged.

BROADWAY J.—I agree.

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Revision accepted in part.

REVISIONAL CRIMINAL.

Before Mr. Justice Broadway and Mr. Justice Fforde.

BASANT SINGH, Petitioner

versus

THE CROWN, Respondent.

Criminal Revision No. 668 of 1925.

Criminal Law Amendment Act, XIV of 1908, section 17 (1), (2)—Accused's plea of guilty to the charge must be confined to the facts set out therein—Difference between offences under the two sub-sections, explained.

Accused petitioner was charged as *Jathedar, Akali Dal, Gujar Khan*, with having addressed two meetings of *Akalis* and with having appealed to the Sikhs of the District to organize themselves into *Jathas* to proceed to *Jaito* in the *Nabha State* and *Bhai Pheru* in *Lahore District* in the name of the *Shromani Gurdwara Parbandhak Committee*, and with having thereby committed an offence under section 17 (2) of the *Criminal Law Amendment Act*. He pleaded guilty to this charge.

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Held, that unless the facts averred in the charge amount in law to an offence under section 17 (2), Criminal Law Amendment Act, the plea cannot amount to an admission of guilt under that section. An accused person does not plead to a section of a criminal statute. He pleads guilty or not guilty to the facts which purport to disclose an offence under that section.

Held also, that on the facts thus admitted petitioner committed an offence under sub-section (1) of section 17, but not under sub-section (2).

Application for revision of the order of Lt.-Col. J. Frizelle, Sessions Judge, Rawalpindi, dated the 7th November 1924, modifying that of Malik Ladhwa Ram, Magistrate, 1st class, Rawalpindi, dated the 29th September 1924, convicting the petitioner.

MAN SINGH, for Petitioner.

RAM LAL, Assistant Legal Remembrancer, for Respondent.

JUDGMENT.

FFORDE J.

FFORDE J.—In this case the petitioner has been convicted on a charge which runs as follows:—

“ That you, on or about the 15th May 1924 and 22nd August 1924 at the Singh Sabhas, Rawalpindi and Gujar Khan, respectively, as *Jathedar, Akali Dal, Gujar Khan*, addressed the meetings of *Akalis* and appealed to the Sikhs of the District to organize themselves into *Jathas* to proceed to Jaito in the Nabha State and Bhai Pheru in Lahore District in the name of the *Shiromani Gurdwara Parbandhak Committee*. The *Akali Dal* and the *Shiromani Gurdwara Parbandhak Committee* and all the *Jathas* organized by or affiliated to these bodies are declared unlawful associations under Punjab Government Notifications Nos. 23772 and 23773, dated 12th Octo-

ber 1923, and thereby committed an offence punishable under section 17 (2) of the Criminal Law Amendment Act and within my cognizance”.

After evidence had been led for the prosecution, establishing the acts set out in this charge, the charge was explained to the petitioner, and on his being asked to plead to it he pleaded guilty and added that he was prepared to repeat the offence in future. He declined to produce any evidence in his defence.

Mr. Man Singh for the petitioner has argued that the charge does not disclose an offence under section 17 (2) of the Criminal Law Amendment Act. He contends that even assuming that the petitioner was the *Jathedar* of the Akali Dal, Gujar Khan, and that he addressed meetings of the *Akalis* of that district urging them to organise themselves into *Jathas* and proceed to Jaito and Bhai Pheru in the name of Shiromani Gurdwara Parbandhak Committee, this did not amount to managing or assist in managing an unlawful association or promoting or assisting in promoting a meeting of any such association or of any members thereof as such members.

Mr. Ram Lal for the Crown on the other hand argued that the petitioner having pleaded guilty generally to the charge, must be deemed to have admitted the committing of an offence punishable under section 17 (2), Criminal Law Amendment Act, as that section is specifically mentioned in the charge. I will first deal with Mr. Ram Lal's contention. In my opinion, the plea of guilty amounted to an admission that the petitioner occupied the position as stated in the charge and committed the acts therein specified, but unless the facts averred in the charge amount in law to an offence under section 17 (2), Criminal Law Amendment Act, the plea

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cannot amount to the admission of guilt under that section. An accused person does not plead to a section of a criminal statute. He pleads guilty or not guilty to the facts which purport to disclose an offence under that section. Accordingly we have to consider whether the facts set out in the charge establish an offence within the provisions of the Criminal Law Amendment Act.

The petitioner's admission amounts to this: He was the *Jathedar* of the Akali Dal, Gujar Khan, and as such addressed meetings of the *Akalis* and appealed to the Sikhs of the Rawalpindi District to organize themselves into *Jathas* for the purpose of proceeding to Jaito in a Native State and Bhai Pheru in the Lahore District in the name of the Shiromani Gurdwara Parbandhak Committee. Now by notification No. 23772, dated 12th October 1923, the Shiromani Gurdwara Parbandhak Committee and all *Jathas* organized by or affiliated to this body were declared to be unlawful associations. By notification No. 23773, of the same date, the association known as the Akali Dal, otherwise known as the Shiromani Akali Dal, and all *Jathas* organized by or affiliated to this body are declared to be unlawful associations. The Akali Dal at Gujar Khan therefore is an unlawful association and a person who admits himself to be a *Jathedar* of that organization is admitting that he is a member of an unlawful association. He has, therefore, pleaded guilty to an offence under the provisions of section 17 (1) of the Criminal Law Amendment Act, which provides that whoever is a member of an unlawful association or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in

any way assists the operation of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine or both. A further admission by the petitioner that he addressed meetings of the *Akalis* and asked them to form *Jathas* in the name of Shiromani Gurdwara Parbandhak Committee clearly amounts, in my opinion, to an admission that he is assisting the operations of the Shiromani Gurdwara Parbandhak Committee. There can therefore be no question whatsoever as to his having pleaded guilty to an offence under section 17 (1) of the Act. The evidence moreover conclusively establishes an offence under this sub-section. He has not, however, been charged under this section but under section 17 (2), and the question therefore is whether the facts set out bring him within the provisions of that sub-section. To come within the latter provisions he must be proved to have managed or assisted in managing, or to have promoted or assisted in promoting, a meeting of the Akali Dal or of any members thereof as such members. To this effect he has not pleaded guilty, and it does not appear to me that the finding of the lower appellate Court establishes an offence under this sub-section. I understand the word "*Jathedar*" to mean a person who leads or controls a *Jatha*, and if it had been proved that there was any *Jatha* in being at that time led or controlled by the petitioner, he would obviously be guilty of managing an unlawful association. It appears, however, that the object of the meeting in question was to bring such a *Jatha* into being. The charge brought by the petitioner against the people of Gujar Khan was that they had not done their duty to the Shiromani Gurdwara Parbandhak Committee in forming *Jathas*, and it is not suggested in evidence that any

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Jatha had been formed at that place. It cannot therefore be said that the petitioner by describing himself as a *Jathedar* has been proved to have managed or assisted in managing an unlawful association. I do not see, either, how he can be said to have promoted or assisted in promoting a meeting of a proclaimed association. It is true that he was the principal speaker at the meeting of the 15th May but speakers at public meetings are not necessarily the persons who organize these meetings, and there is no evidence to the effect that the petitioner either promoted or assisted in promoting, the meeting using these words in their ordinary significance. I am, therefore, of opinion that the conviction under section 17 (2) cannot stand. Under section 17 (1) the maximum punishment which may be imposed is imprisonment for a term of six months and a fine. The petitioner has already undergone a term of more than six months' imprisonment and accordingly if he had been charged with and convicted of an offence under section 17 (1), he would have served the maximum term of imprisonment for such an offence.

For the reasons given I would accept the petition to the extent of altering the conviction to one under section 17 (1), and would direct that his bail bond be discharged and he be set at liberty.

BROADWAY J.

BROADWAY J.—I agree.

C. H. O.

Revision accepted in part.