

REVISIONAL CRIMINAL.

Before Mr. Justice Martineau.

THE CROWN—Petitioner

versus

RAJ PAL (ACCUSED)—Respondent.

1925

Nov. 13.

Criminal Revision No. 1063 of 1925.

Indian Penal Code, 1860, section 153-A—Promoting enmity between different classes—Evidence of intention of accused and belief by him in truth of statements made—whether relevant.

Held, that on a charge under section 153-A of the Indian Penal Code, it is relevant to show the intention of the accused in writing the pamphlet complained of, and also to prove that the allegations contained therein are based on facts as distinguished from rumour.

Jaswant Rai v. King-Emperor (1), referred to.

Evidence to show that the contents of the pamphlet are true or believed by the accused to be true would be relevant also on the question of the sentence to be passed in the event of conviction.

Application for revision of the order of C. H. Disney, Esquire, Magistrate 1st class, Lahore, dated the 13th November 1924, holding that the intention of the accused is relevant, etc.

ZAFARULLAH KHAN, for Government Advocate,
for Petitioner.

TEK CHAND, for Respondent.

JUDGMENT.

MARTINEAU J.—The respondent is being prosecuted for an offence under section 153-A of the Indian Penal Code in respect of a pamphlet called “Rangila Rasool”, of which he is the author, and the present application has been made on behalf of the Crown for revision of an order in which the Magistrate has held

1925

THE CROWN
v.
RAJ PAL.

that the intention of the accused is relevant, and that evidence to prove that allegations contained in the pamphlet are based on facts is also relevant.

The Magistrate is in my opinion right on both points, and his view is supported by the very ruling *Jaswant Rai v. King-Emperor* (1), which has been cited on behalf of the petitioner. That was a judgment of a Division Bench, and one of the learned Judges, Sir William Clark, held that intention was an element in the offence, and said that unless he were satisfied that the accused had a conscious intention of promoting, causing, or exciting enmity and hatred he would not maintain the conviction. The question of the relevancy of the truth of the statements in the article published by the accused was also raised, and Reid J. held that the question of their truth was material so far as the accused's intention was concerned, and the learned Judges made a point of the fact that the story which the accused had given out was based only on a flimsy rumour. Moreover, evidence given to show that the statements made in the respondent's pamphlet were true or believed by him to be true, even if insufficient for the purpose of proving him to be innocent of intending to promote class hatred, would be relevant on the question of the sentence to be passed in the event of his conviction.

I accordingly dismiss the application.

N. F. E.

Revision dismissed.