

FULL BENCH.*Before Coldstream, Monroe and Bhide JJ.*

MAHBUB AHMAD—Petitioner

1936

*versus**May 15.*

THE CROWN—Respondent.

Criminal Original No. 3 of 1936.

Indian Press (Emergency Powers) Act, XXIII of 1931, section 12 (2) : Joint Keeper of a Press on whom notice to deposit security has been served — whether can save the Press from forfeiture by purchasing the share of his partner and pleading that a fresh notice to him was necessary.

M. A. and B. D. were the joint keepers of a Press named the Iqbal Electric Press. M. A. also separately owned another Press called the Mahbub-i-am Press. The Local Government acting under section 3 (3) of the Indian Press (Emergency Powers) Act, demanded a security from M. A. and B. D. the proprietors of the Iqbal Electric Press. This was not deposited and the Press was closed. A few days later M. A. purchased from B. D. the latter's share in the Iqbal Electric Press and bringing part of the machinery of the Mahbub-i-am Press to the room where the Iqbal Electric Press was located, started printing in the same premises, calling the Press the Mahbub-i-am Press. This Press was forfeited by the Local Government under section 12 (2) of the Act. On the petition of M. A. to the High Court it was contended that the management of the Press having changed, and no notice having been served upon the new management to deposit security, the confiscation was *ultra vires* and illegal.

Held, that a joint keeper of a Press on whom a notice has been served under section 3 (3) of the Indian Press (Emergency Powers) Act, cannot, by purchasing the share of his partner, escape liability to have his Press forfeited when he continues to use it, by pleading that he, the present keeper, had not been given notice as required by the Act.

Bodh Raj v. The Crown (1), distinguished.

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Petition under section 23 (2) of Act XXIII of 1931, praying that the order of the Local Government, dated 10th December, 1935, forfeiting the Press of the Petitioner under section 12 (2), be set aside.

SHABBIR AHMAD, for Petitioner.

DIWAN RAM LAL, Government Advocate, for Respondent.

COLDSTREAM J. COLDSTREAM J.—On the 18th September, 1926, the petitioner Mahbub Ahmad made a declaration under section 4 of the Press and Registration of Books Act, 1867, stating that he had a press in Multan called the ‘Mahbub-i-am Press.’ On the 24th February, 1928, Mahbub Ahmad jointly with Baha-ud-Din made a similar declaration in respect of another press in a different street in Multan entitled the Iqbal Electric Press. On the 5th July, 1935, the Local Government acting under sub-section 3, section 3 of the Indian Press (Emergency Powers) Act, 1931, called on Mahbub Ahmad and Baha-ud-Din to deposit securities to the extent of Rs.2,000 on the 19th July. The security was not deposited and the Press was closed. On the 27th July, 1935, Mahbub Ahmad having purchased from Baha-ud-Din the latter’s share in the Iqbal Electric Press brought the Mahbub-i-am press machinery to the room where the Iqbal Electric Press was located and started printing in the same premises, calling the press the Mahbub-i-am Press. In August Mahbub Ahmad began to use this press for printing. On the 10th December, 1935, the Local Government, in exercise of the power given it by section 12, sub-section (2) of the Indian Press (Emergency Powers) Act, 1931, declared the press to be forfeited to His Majesty. The police accordingly took

possession of all this machinery and the other articles on the premises connected with the Press.

The petitioner has appealed to this Court under section 23 of the Act to have the order of forfeiture set aside. The contention urged before us is that the management of the press having been changed, and no notice having been served on the new management to deposit security, the confiscation was *ultra vires* and illegal. I can see no force in this argument. It is not disputed before us that the press, which has been forfeited was none other than the press, which had been called the Iqbal Electric Press, although it was working under the name of the Mahbub-i-am press, parts of the machinery of which press had been incorporated with the Iqbal Electric Press. The petitioner was the keeper of this same press when notice to deposit security was served upon him on the 5th July, 1935, and was still its keeper when it was declared forfeited. I can see no good reason for holding that a joint keeper of a press on whom a notice has been served under section 3 of the Act can by purchasing the share of his partner escape liability to have his press forfeited when he continues to use the press, by pleading that he, the present keeper, had not been given notice as required by the Act. *Bodh Raj v. The Crown* (1), to which the petitioner's counsel has drawn our attention, deals with a different case and does not appear to me to have any clear application to the present circumstances.

Secondly it is contended that so much of the confiscated press as consists of machinery of the Mahbub-i-am press cannot be confiscated. It is not, however, denied that the machinery of both the presses was

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(1) I. L. R. (1935) 16 Lah. 270.

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being used for the same work and printing the same matter when the confiscation was made, and parts of the Mahbub-i-am machinery were being used to supplement that of the Iqbal press. It is not shown that the Mahbub-i-am machinery or any part of it was being kept separate from and not being used in conjunction with the confiscated press.

The only question for decision in this case appears to me to be one of fact, namely, whether the confiscated press is the Iqbal Electric press in respect of which the petitioner was given notice on the 5th July, 1935. There can be no doubt that the confiscated press was in fact the Iqbal Electric press. I would accordingly dismiss this petition with costs, fixing counsel's fee at Rs. 64.

MONROE J.

MONROE J.—I agree.

BHIDE J.

BHIDE J.—I agree.

P. S.

Petition dismissed.