
(1952) 05 CAL CK 0008

In the Calcutta High Court

Case No : Criminal Revision Case No. 150 of 1952

Abdul Gaffar

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 23-05-1952

Acts Referred:

Bengal Criminal Law (Industrial Areas) Amendment Act, 1942 — Section 4

Citation : (1954) 1 ILR (Cal) 389

Hon'ble Judges : Chunder, J

Bench : Single Bench

Advocate : Prasun Chandra Ghose, for Ajit Kumar Datta, for the Appellant; Benoy Kumar Roy, for State, for the Respondent

Judgement

Chunder, J.—This is a Rule issued at the instance of an accused person, who has been convicted u/s 4 of the Bengal Criminal Law Amendment Act (Ben. Act IV of 1942). The charge against him was that he was in possession of seven electric imp-holders, which there was reason to believe to have been stolen from the factory at Ichapur. The only evidence that was given was that similar holders as found with the accused were excused at the Ichapur Factory. There is absolutely no evidence whatsoever that such or similar holder had been even lost from the Ichapur Factory. The learned magistrate has said that the Bengal Criminal Law Amendment Act shifts the onus on the excused person. He has not clearly understood the question of thus. That there is reason to believe that the goods were stolen (sic) fraudulently obtained must be proved by the prosecution. The onus is not upon the accused, but upon the prosecution. That the Bengal Criminal Law Amendment Act does is that, (sic)ter the prosecution has discharged this onus, it is for the excused to explain his possession of such goods, and that onus certainly is upon him. In the present case, the question of this onus upon the accused never arose because the prosecution never even gave evidence from which any man could say that there was reason to believe that these were stolen goods.

2. Under the circumstances, the Rule is made absolute and the conviction and sentence are set aside. The fine, if paid, is to be refunded.