

(1947) 12 PAT CK 0002
In the Patna High Court

Ajit Rankan Bhattacharya

APPELLANT

Vs

The King

RESPONDENT

Date of Decision : 19-12-1947

Acts Referred:

Bihar Criminal Law (Industrial Areas) Amendment Act, 1943 — Section 6

Citation : AIR 1949 Patna 40

Hon'ble Judges : Agarwala, Acting C.J.

Bench : Division Bench

Judgement

Agarwala, Ag. C.J.

1. The petitioner has been sentenced to six months' imprisonment on a conviction for an offence u/s 6, Bihar Criminal Law (Industrial Areas) Amendment Act, 1943. He was found in possession of the glasses of three motorcar-headlights and of some parts of a wireless receiver. Section 6 provides,

Whoever in any industrial area has in his possession. any industrial article which there is reason to believe to have been stolen or otherwise obtained in any unlawful manner shall, if he fails to account for such possession or such act to the satisfaction of the Magistrate, be liable to fine which may extend to Rs. 1000 or to imprisonment for a term which may extend to one year or to both.

"Industrial area" is defined in Section 2(b) of the Act as an area declared to be an industrial area under Sub-section (3) which empowers the Provincial Government by notification to declare any area to be an industrial area for the purposes of the Act. It has not been disputed that the Government has declared the whole of the Dhanbad sub-division to be an industrial area for the purposes of the Act, or that the place where the petitioner was found in possession of the article in question is the Dhanbad sub-division. An "industrial. article" is defined by Section 2(c) as meaning any Article (1) produced or manufactured in any factory or workshop; or (2) used for the purposes of the undertaking in any mine, factory or workshop and not being crude ore or coal or coke.

2. The Court below has held that any article which has been produced or manufactured in any factory or workshop is an industrial article for the purposes of Section 5 of that Act, that is to say, if a person were found in an industrial area with a Swiss made watch of which he was unable to give an account which satisfied the Magistrate, he would be liable to be convicted u/s 5. That, it is clear to me, is not the intention of the Legislature at all. The preamble declares that

Whereas it is expedient to take steps to prevent the theft of certain articles ordinarily manufactured and used in factories; mines and places in which any industry or trade is carried on....

What the Act is intended to deal with is cases,, of theft in an industrial area of articles which are produced or manufactured in that area, or; which are used for the purposes of any mine, factory or workshop situated in that area. If the prosecution had proved in this case that the-light glasses or the radio parts had been produced, or manufactured in the Dhanbad sub-division, or that they were being used for the purposes of a mine, factory or workshop in that sub-division, the articles would have fallen within the definition of industrial articles within the meaning of this, section. The prosecution, however, has done nothing of the kind. It has certainly not proved that these things were produced or manufactured in any factory or workshop of the Dhanbad sub-division, nor has it proved that they were used for the purposes of any mine, factory or workshop in that sub-division. There are many persons resident within the Dhanbad sub-division who have nothing to do-with any mine, factory or workshop, and who, presumably, in the ordinary course, use motor car lights and wireless sets. It is not, therefore, beyond the bounds of possibility that the articles in question in the present case were in use-in some private car or house.

3. There is another difficulty in the way of the prosecution. There is no finding in the judgments of the Courts below as to what reason there was to believe these articles to have been; stolen, or otherwise obtained in any unlawful manner. The circumstances in which they were found were certainly suspicious and might have formed the basis of a proceeding against the petitioner if the articles had been industrial articles But there is no finding in the judgment of the Court below as to the existence of reasons leading to a belief that they were stolen or otherwise obtained in any unlawful manner.

4. The conviction and sentence in the present case must, therefore, be set aside, and the rule made absolute.