
(1924) 08 BOM CK 0039
In the Bombay High Court
Case No : Criminal Appeal No. 309 of 1921

Emperor	Vs	APPELLANT
Rachappa Murigeppa Shabadi		RESPONDENT

Date of Decision : 15-08-1924

Acts Referred:

Penal Code, 1860 (IPC) — Section 294A

Citation : AIR 1925 Bom 26 : (1924) 26 BOMLR 968 : 83 Ind. Cas. 1006

Hon'ble Judges : Lallubhai Shah, J;Fawcett, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Lallubhai Shah, Actg. C.J.

1. This is an appeal by the Government of Bombay against the order of acquittal made in a summary trial at which the accused was charged u/s 294 A, Indian Penal Code. The act charged against him was that he published a hand-bill relating to his shop in which on a side the following print appeared "Goa Lottery tickets can be had at our place (i. e. shop)." The learned trial Magistrate did not accept the contention for the Crown urged before him that this constituted an offence under the second paragraph of Section 294 A. In other words he did not accept the contention that this constituted a publication of a proposal to pay any sum, on any event or contingency within the meaning of the section. Apparently at the trial an attempt was made to show that the accused in fact had sold some tickets of this lottery, but that attempt did not succeed. We are not concerned in the present case with the question as to whether it would be an offence under the section to sell a ticket relating to a lottery, which is not sanctioned by the Government u/s 294 A, and I desire to make it clear that in dealing with this case we express no opinion on that question.

2. The publication that Goa lottery tickets can be had at a particular place does not appear to me to be sufficient to constitute a publication of a proposal to pay

any sum on any event or contingency relative or applicable to the drawing of any ticket in any lottery not authorised by Government as provided in the second paragraph of Section 294 A. If there had been an advertisement about the lottery itself, the position might have been different. It is difficult to say that the publication of a reference to the tickets about an unauthorised lottery is prohibited by Section 294 A.

3. Whether it would constitute abetment of an offence punishable u/s 294 A is a matter with which we are not concerned. The accused was not charged with abetment and we are not in a position to ascertain facts on this record, which it would be necessary for us to know in order to determine the question of abetment, if he were so charged.

4. In this appeal the only question is whether the publication I have referred to constitutes an offence u/s 294 A, and I am unable to hold that it constitutes such an offence. We dismiss the appeal.

Fawcett, J.

5. I concur. We have to construe this section strictly as it is a penal enactment, and I think it is impossible to extend the words "publishes any proposal to pay any sum," which is the only part of the second paragraph which could apply to the present case, so as to cover a proposal to sell tickets of the kind now in question. If the legislature wants such a proposal to be covered, I think it will be necessary to amend the Act on the lines of the corresponding English statute.