
(1975) 08 AHC CK 0013
In the Allahabad High Court
Case No : Criminal Revision No. 395 of 1975

Shyam Narain Mishra

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 08-08-1975

Acts Referred:

Penal Code, 1860 (IPC) — Section 339, 342

Citation : (1975) 08 AHC CK 0013

Hon'ble Judges : Hari Swarup, J

Final Decision : Dismissed

Judgement

Hari Swarup, J.

This revision has been filed against the conviction of the applicant under Section 342 I.P.C. and the sentence of fine of Rs. 400, and in default two months R. I.

The case of the prosecution, in brief, was that the complainant lived on the second floor. The accused lived in the ground and the first floors. He locked the door of the second floor thereby making impossible, for the complainant and members of his family to come out.

Learned counsel for the applicant contended that the action of the accused, in the circumstances of the case, cannot amount to be an offence punishable under Section 342 I.P.C. The contention is that the accused who was a tenant of the ground and the first floor had a right to lock the door in order to protect his own property. The second contention is that the case falls under the exception to Section 339 I.P.C. find no merit in either of the two contentions.

Section 310, defines wrongful confinement, it runs as under:

"Whoever wrongfully restrain any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to cord fine" that person."

Section 342 I.P.C. makes wrongful confinement punishable. The chief in

gradients of the offence is the placing of a person in such wrongful restraint the he cannot go beyond the circumscribing limits. Once the door is locked the persons living in the upper floor confined to that flat and cannot corrupt. This will amount to wrongful confinement. No person has a right to commit an offence under the gain of protecting his property from theft No one can, in the exercise of his right of perfecting property, go to the extent of interfering with the rights of his The right to perfect the property from apprehended theft cannot be deemed to include the right to put his neighbour in wrongful confinement.

Coming to the Second argument the Exception to Section 339 I.P.C. provides:

"The obstruction of a private moreover land or water which a person good faith believes himself have a lawful right to obstruct, not an offence within the mean of this section."

There can be no reason for a person believe that he has a lawful right obstruct the passage of a person so to force him to remain confined in the house in which he lives. A person can of be deemed to believe in good faith that he has a lawful right to obstruct the passage by closing the door which is necessary for the occupant's egress and ingress. The "exception" cannot, therefore, be attracted to the present case.

In the result, the revision fails and is dismissed.