

(1935) 08 CAL CK 0053
In the Calcutta High Court

Superintendent and Remembrancer of Legal Affairs	APPELLANT
Vs	
Kali Raman Bhattacharjee	RESPONDENT

Date of Decision : 07-08-1935

Acts Referred:

Citation : AIR 1936 Cal 414 : 166 Ind. Cas. 297

Hon'ble Judges : Lort-Williams, J; Lord-Williams, J; Jack, J

Bench : Full Bench

Judgement

Lort-Williams, J.—This is an appeal on behalf of the Government of Assam by the Superintendent and Remembrancer of Legal Affairs, Bengal, against the order of the Second Additional Sessions Judge of Sylhet, dated 13th February 1935, acquitting the accused-respondent on appeal from the order of the Additional District Magistrate of Sylhet, who had convicted him u/s 20 (1), Assam Criminal Law Amendment Act, 1934, and sentenced him to suffer rigorous imprisonment for six months. The appellant was served with a notice u/s 16 (1) (a) of the Act on 7th August 1934, directing him to notify his residence and any change of residence to the Superintendent of Police, Sylhet. The appellant was then residing at Sylhet town and he notified his residence duly. On 21st October 1934 he wrote a letter to the Superintendent of Police, Sylhet, to say that he was starting for Bombay that evening to attend the Congress Session as a representative of a local weekly, and he left Sylhet on the same evening. The appellant returned to Sylhet on 2nd December 1934. On 26th November 1934 he wrote a letter from Calcutta stating that at Bombay he had stayed at Abdul Gafur Nagar (the Congress site) and had been detained by illness and that he had arrived at Calcutta a few days previously and was staying at 175/1 Upper Circle Road. On the appellant's return to Sylhet on 2nd December 1934 he was arrested on a charge u/s 20 (1), Assam Criminal Law Amendment Act.

2. Apart from the merits of the case, a point of law was raised on behalf of the appellant to the effect that the order u/s 16 (1) of the Act, being an Assam Act, has no force, so far as the appellant was concerned, when he was outside the

boundaries of Assam. The extent of the application of the Act is defined by Sub-section (1) thereof, viz., that it extends to the whole of Assam. It is clear therefore that the Act has no force outside Assam. An Act intended to have effect outside the limits of the province would probably have to be passed by the Government of India. But it is not necessary for us to decide that point. This is a Provincial Act of the Assam Government. It was intended, as the learned Sessions Judge observed, to prevent subversive action within the jurisdiction of the Local Government of the Province of Assam. That Government is not *prima facie* concerned with the good government of areas outside its jurisdiction. Undoubtedly, it is necessary to take steps to prevent a person believed to be engaged in subversive activity in one province from working freely for the same object in another province. But as the learned Judge observed the remedy for this is that when such a person leaves the jurisdiction and enters the jurisdiction of another province, the authority which made the original order should notify the authority in the area to which that person has gone, and that authority should take the necessary steps.

3. For these reasons, it is necessary for such a person leaving Assam, before doing so, to notify his change of residence, that is, to state the place of residence to which he intends to go. With regard to this, the complaint is that all that he told the authorities was that he was going to Bombay. But it seems that he had some excuse for this omission, because when he started he did not know where he was likely to stay in Bombay, as he was only going there to attend the Congress Session as the representative of a local newspaper. However he gave the authorities this information, and if the police had been vigilant it would have been comparatively easy for them to have got into touch with the appellant when he was attending the Congress Session at Bombay. Instead of that they waited for over a month before they took any action in the matter. Apparently, the authorities had no objection to the appellant's going to Bombay to attend the Congress Session. But they complained of the fact that he had not informed them of his subsequent changes of address in Bombay and Calcutta. In my opinion the Assam Act does not and is not intended to apply to such a person outside the limits of Assam. But the Assam authorities are interested in the movements of such a person directly he returns within the limits of the province. If these restrictions are not considered to be sufficient by the various Local Governments, steps should be taken to obtain legislation which will affect the whole of India irrespective of the limits of any particular Province. Apart from the question of law I am satisfied that the appellant in this case acted in good faith as is shown by the letter which he wrote on 26th November 1934, and by his return to Sylhet on 2nd December 1934. In these circumstances the appeal must be dismissed.

Jack, J.

4. I agree.