

## Ramesh Chandra Nigam vs The State on 21 July, 1950

**Equivalent citations: AIR1952ALL359, AIR 1952 ALLAHABAD 359**

ORDER

Misra, J.

1. This criminal revision is directed against the order of the Additional District Magistrate, Lucknow. The applicant Eamesh Chandra Nigam was prosecuted for an offence under Section 17(1), Criminal Law Amendment Act (Act XIV [14] of 1908) for assisting the operations of the Rash-triya Swayam Sewak Sangh, which was declared an unlawful association by the Provincial Government under S, 16 of that enactment.

2. At the search of the house of the applicant which took place on 15-12-1918 by the police, a cyclostyle duplicator and a file containing literature meant for transmission as daily bulletins to various newspapers were recovered. The applicant is a sub-editor of a news agency called "Hindustan Samachar". He admitted that the duplicator was in his use and that he sent the news bulletins to newspapers for publication but denied, that he thereby in any manner assisted the aforesaid unlawful association. The learned Magistrate in convicting the applicant of the offence under Section 17 (1), Criminal Law Amendment Act relied upon the contents of the recorded documents. According to his reading they indulged in high praise of the Rashtriya Swayam Sewak Sangh and denounced the stand taken by the Government. He took the view that inasmuch as the literature was meant to glorify the unlawful movement by circulating it, the applicant must be deemed to have assisted in the operations of the Sangh within the meaning of Section 17(1) of the Act. Ramesh Chandra Nigam was, therefore, convicted and sentenced to undergo two months' rigorous imprisonment. The order was upheld by the Civil and Sessions Judge, Lucknow, in appeal and the accused has come up to this Court in revision. I understand that he has already served out his sentence.

3. Section 17 (1) prescribes that:

"a person who is a member of an unlawful association or who participates in its meetings contributes or receives or solicits contribution for it or in any way assists the operations of any such association"

is liable to be punished with imprisonment, which may extend to six months or with fine or with both. The words "assists the operations of association" apparently involve a conscious act on the part of the person charged. In other words, there must be an intention to that effect present in the mind of the accused and the acts and operations of the association must be so connected together that it may be possible for a Court of law to infer from them the existence of a design or calculation. In the present case, apart from the fact that literature eulogizing the Sangh and deprecating the

attitude of the Government was found in possession of an employee of a newspaper agency, there is nothing whatever on the record to indicate that the accused had any sympathy with the movement or purposely tried to help its operations. The prosecution has not even tried to prove that the applicant was aware of the contents of the various documents which contained in the file. The mere fact that he admitted using the duplicator does not indicate that he used it for furtherance of the unlawful association or for assisting it. In the absence of any unequivocal overt act on the part of the applicant I find it difficult to hold that the charge has been brought home to him. The conviction, in my opinion, is insupportable and must be set aside. I allow the revision and order accordingly.