

## The State vs Udit Narain on 14 April, 1955

**Equivalent citations: AIR1955ALL524, 1955CRILJ1308, AIR 1955 ALLAHABAD 524**

### JUDGMENT

Mulla, J.

1. Udit Narain, the opposite party in this case, was convicted by the Sub-Divisional Magistrate. Sadar, District Pratapgarh, under Section 12, Press and Registration of Books Act, 1867, and was sentenced to a fine of Rs. 300/-, in default to undergo simple imprisonment for six months.

2. The facts of the case briefly stated are as follows : One Sri Sarkar was the Deputy Commissioner of Pratapgarh. He was transferred from the district. Some residents of Pratapgarh did not like this transfer. A notice was printed on 2-4-1953, in which it was announced that a meeting of the residents of Pratapgarh would be held to oppose this order of transfer. The names of the Press as well as the Printer were not printed on the notice. The place where the notice was printed was also not printed in the notice. The matter was investigated by a C. I. D. Inspector, who took the permission of the District Magistrate for doing so.

In the course of his investigations, he found that this notice was printed at the Avadh Press and it was printed by the opposite party, who was the Assistant Manager of that Press. The opposite party was placed before a Magistrate for recording his statement and he admitted that it was a mistake that the particulars mentioned above were not printed in the notice. He also prayed that he should be pardoned as it was a sheer mistake and he had no intention of defying any law. The Magistrate, however, as mentioned above, convicted him.

3. Udit Narain appealed against this order of conviction and the Civil and Sessions Judge of Pratapgarh allowed his appeal on the ground that the notice printed by the opposite party cannot be held to be a 'paper' within the meaning of Section 3, Press and Registration of Books Act 1867. He relied on several authorities, which he quoted in his decision. It is against this order of acquittal that the State has come up in appeal.

4. The counsel for the State contends that the learned Sessions Judge erred in holding that the word 'paper' in Section 3 does not include a notice. According to him, the word 'paper' means any piece of paper, which has been printed. He also relies on a decision -- 'Amiya Kumar v. Emperor', AIR 1931 Cal 641 (A). In this decision a hand-bill was held to come within the definition of the word 'paper' but the point was conceded by the counsel & the matter was not really argued. It is therefore of no help in interpreting the word 'paper'.

5. Unfortunately the word 'paper' has not been defined in the Press and Registration of Books Act (Act 25 of 1867). Normally where a word is not defined the proper course is to interpret it in its ordinary and natural meaning. But the difficulty in this case is that if the natural meaning is given to the word 'paper' it would lead to absurd and ridiculous results. As observed by Beaumont, C. J. in -- 'Dattatraya Malhar v. Emperor', AIR 1937 Bom 28 (B):

"The Advocate General argues that the only meaning which can be given to the expression 'paper printed' is that it includes every piece of paper on which any letter, figure or sign is printed, and that every such piece of paper falls within the mischief aimed at by the Act..... If the contention of the Advocate General be correct as to the meaning of 'paper' it would seem to follow that offences against Section 3 of the Act are committed by practically everybody from the Viceroy and Governors downwards. Every invitation to dinner or to a party of any sort which is printed, every printed notice from a club secretary to members, every printed visiting card would be "printed paper" within the meaning attributed to the expression by the Advocate General and would require to have printed upon it the name of the printer and place of printing".

It is, therefore, clear that the word 'paper' cannot be construed in the ordinary and natural meaning of the word.

6. In interpreting the words of a statute, it is always necessary to consider the intention of the legislature. The intention of the legislature is to be judged from the preamble to the Act. The preamble runs as follows :

"Whereas it is expedient to provide for the regulation of printing presses and of periodicals containing news, 'for the preservation of copies of every book printed or lithographed in British India', it is hereby enacted as follows: ....."

The short note before the preamble at the beginning of the Act reads as follows :

"An act for the regulation of Printing presses and Newspapers, 'for the preservation of copies of books printed in British India'; and for the registration of such books."

It is, therefore, clear from this short note and the preamble that the primary concern of the legislature in passing this Act was to enact a measure which would help in the preservation of the copies of books. This is further illustrated from the statement of Objects and Reasons given in the Gazette of 1867, at page 191. Extracts from these Objects and Reasons are as follows :

"It has for many years been the endeavour of the authorities to make a collection of the books and other publications emanating from the various printing presses at work throughout the country. It was an instruction of the late court of Directors of the East India Company that copies of every important and interesting work published should be despatched to England to be deposited in the library of the

India House. .... .in the province of Lower Bengal at least, there has been of late years very great activity in the literary world and every year shows no inconsiderable increase in the number of works original or reprinted, published and in the number of printing presses established.

The literature of a country is no doubt an index of the opinions and condition of the people and such an index it is essential to good government that the rulers of country should possess; In the interest, too, of history and of the scholars of Europe, it is undoubtedly wise to provide that a complete collection of the publications of the press of this country should be made as well in this country as in England.

It cannot, but be of benefit to authors and publishers that catalogues of their works, arid to a very limited extent copies of the works themselves, should be accessible to the public in certain well-known places."

In view of the extracts quoted above, there can be no doubt that the primary intention in passing Act 25 of 1867 was to preserve copies of every book or paper which had a literary, historical or cultural value. In this context the word 'paper' appears to have been used to cover every such printed matter which did not come under the definition of book given in this Act, but which had a literary, historical or cultural value.

7. Another meaning of the word 'paper' has been given by Courtney-Terrell, C. J. in -- 'Rameshwar Prasad v. Emperor', AIR 1931 Pat 351(2) (C), The learned Judge observed :

"It is clear that this part of the Act to which this preamble relates is concerned only with the regulation of papers containing news which are intended to be circulated and, in my opinion, the word 'papers' in sections 3 and 4 of the Act are clearly papers of this description and are practically, if not exactly, synonymous with the word 'newspaper' as defined in section 1 of the Act itself."

With deep respect for the Judges who gave this decision, we think that the word 'paper' in Section 9 of the Act is not synonymous with the word 'newspaper', because the Act has used the word 'newspaper' distinctly in several sections of the enactment and has even defined it. In our opinion the word 'paper' was really intended to cover all those papers which could not be defined as 'books' or newspapers' but which had historical, cultural or literary value.

8. This question again came up before a Bench of the Lahore High Court in -- 'Manohar Lal v. Emperor', AIR 1943 Lah 1 (D), and the learned Advocate General in that case argued that, on a reasonable construction, the word 'paper' meant other printed matter analogous to a newspaper, pamphlet or a book. The learned Judges held that even if this definition is accepted, it cannot apply to a 'paper' of the type of a poster or a notice.

They, however, did not accept this definition and expressed their agreement with the views given in the Patna and Bombay decisions cited above. In the end they observed:

"We are of opinion that there is a lacuna in the Act in so far as it omits to define the phrase 'paper printed'. If the intention is to bring within the ambit of the Act a poster which is not within the scope of the definition of the 'newspaper', there should be a separate definition from which pressmen, the public and the Courts will be in a position to know what posters or notices fall within the mischief of the Act and what are exempt and thereby set at rest the doubts which have been expressed by various High Courts on this point.' This decision was given in 1942 and still the State has not chosen to define the word 'paper' used in this Act. We have already observed that the natural meaning of the word 'paper' cannot be accepted. It leads to absurd and ridiculous results. We have also given our opinion that in the context of the enactment, the word 'printed paper' means a paper which is of cultural, historical or literary value. We have also mentioned the interpretation and the meaning given to the word 'paper' by Courtney-Terrel C. J., according to which 'the word 'paper' as used in Section 3 of this Act is almost synonymous with the word "newspapers". It is therefore, clear that the word 'paper' used in the Act is so vague that it is not possible to interpret it.

We may have our own interpretation of the word, but we cannot be sure that that interpretation is correct. It may be that the word 'printed paper' means a paper printed for public circulation either by sale or free distribution and does not include papers intended for private use of an individual or a corporate body, but if we give this meaning to the word 'paper' it would be introducing our own interpretation of the word, which may or may not be correct.

We cannot convict a person on such an interpretation. It has been held that a penal provision must be clear and unambiguous before effect can be given to it. As held by Desai J. in -- 'Bishamber Dayal v. State', AIR 1954 All 183 (E), "an order of a penal nature must be clear and specific in its language and must not leave anything to presumption. If a member of the public is prohibited from doing an act, he must be prohibited clearly and in an unambiguous language."

We, therefore, find that the word 'paper' is neither clear nor unambiguous. As such, it is not possible to convict the opposite party by holding that the word 'paper' includes the notice which was printed by him.

9. In our opinion the learned Sessions Judge made no error of law when he acquitted the opposite party. On the law as it stands, the conviction of the opposite party was not maintainable. We, therefore, dismiss this appeal. The opposite party need not surrender, and his bail bonds stand cancelled.