Dal Chand And Anr. vs The State on 9 October, 1952

Equivalent citations: AIR1953ALL123, AIR 1953 ALLAHABAD 123

JUDGMENT

1. This is an appeal by Dal Chand and Pitam against their conviction of an offence under Section 395, I. P. C. and the sentence of seven years' rigorous imprisonment passed upon each of them by the learned Additional Sessions Judge of Bareilly.

2. It appears that eight persons in all were put upon their trial. Six of them were acquitted and the two appellants were convicted and sentenced.

3. On the night of the 27th of February, 1950 -- it was a moonlit night -- about midnight an armed dacoity appears to have been committed at the house of one Lala Ram in village Angadpur Khamaria. It is the prosecution case that some twenty persons participated in this dacoity. The family of Lala Ram is a well-to-do family of Chamars, the head of which is Lala Ram. He has three other brothers viz. Jhamman, Hod and Birbal, prosecution witnesses, and a son named Ram Lal P. W. 1. On the night when the dacoity was committed, Lala Ram was not at his house but was at his Kolhu, while his three brothers and the son Ram Lal as also the ladies of his family were sleeping inside the house. The dacoits are said to have been armed with guns and lathis. Inside the house a lantern is said to have been burning at the time and the dacoits are alleged to have used electric torches and also burnt 'Phoos' at some places inside the house. The dacoity is said to have been committed for about an hour and a half. Villagers on hearing the outcries and the sound of gun fire appear to have collected in front of Lala Ram's house. They are said to have burnt three heaps of 'Phoos' on different sides outside the house of Lala Ram. It is the prosecution case that there was an exchange of lathi fight between the villagers on one side and the dacoits on the other. When the dacoits retreated, they were given a chase by the vil lagers. About a furlong away from the dacoited house, near the fields of two persons, viz. Mansukh Dhobi and Kesri Teli, there was a regular lathi fight as the result of which some of the dacoits received injuries and one dacoit named Ram Lal Sonar of village Bhowa, who was seriously injured, was captured by the villagers. This man soon became unconscious and remained in that condition till he died in. the District Hospital on the 1st of March 1950. He was left in charge of the Mukhia and other villagers while Ram Lal P. W. 1, son of Lala Ram, proceeded to the police station Bhuta and made the first information report at 7 A.M. The police station is some four miles away from village Khamaria. In this report, three persons including the injured dacoit who had been caught by the villagers and the appellant Dal Chand (Dalla) were named as the culprits who committed this dacoity along with fifteen or twenty other unknown persons.

4. Police investigation followed. The station officer appears to have been out of station. The Head Moharrir, Jit Lal, therefore proceeded to the village and started investigation. A list of stolen property was given to the Head. Moharrir on his arrival at the village. Some fired cartridges and Tiklis (Ext. 2) were found on the spot. A lathi, Ext. 1, belonging to the injured dacoit who had been caught, was also handed over to the Head Moharrir. Meanwhile, the station officer arrived on the

scene and took over investigation. Arrest of a number of suspects was effected and in due course identification proceedings were held before a Magistrate of the first class. As the result of the investigation, eight persons in all, as mentioned above, were eventually put upon their trial before the learned Sessions Judge with the result indicated above.

5. The trial before the learned Sessions Judge was by jury which consisted of five persons. As the result of the trial the jury unanimously returned a verdict of guilty so far as the two appellants viz., Dal Chand and Pitam were concerned, while they unanimously acquitted the remaining six persons, namely Ganga Ram, Tara Chand, Tondi Dhobi, Baboo, Chotte, and Bhoop Ram. The learned Sessions Judge accepted the verdict of the jury. He convicted the two appellants and sentenced them each to seven years' rigorous imprisonment while he acquitted the remaining accused persons.

6. Learned counsel for the appellants has, in the first instance, contended strenuously that the charge to the jury was not a fair charge inasmuch as many essential and material points of the case were not brought to the notice of the jury. Learned counsel has therefore contended that there was a serious omission on the part of the learned Judge in his charge to the jury. In short, learned counsel contended that the verdict of the jury was vitiated owing to a misdirection by the learned Judge.

7. Next, it was contended by the learned counsel that the provisions of law directing the trial of a case of dacoity, like the present one, by jury were against the fundamental rights guaranteed to the citizens of India by Article 14 of the Constitution. The argument of the learned counsel was that the provisions of Article 14 which guarantee "equality before the law" or "the equal protection of the laws" within the territory of India were violated by the provisions of law relating to jury trial.

8. We now proceed to examine the arguments of learned counsel.

9. Section 423(2), Criminal P. C., makes it clear that this Court, as the Court hearing the appeal, cannot alter or reverse the verdict of me jury unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him. The main question, therefore, is whether there has been, in the present case, as is the contention of learned counsel, a misdirection or non-direction by the learned Judge which has brought about an erroneous verdict by the jury. Learned counsel has, in this connection, placed before us the charge to the jury and has submitted his criticisms in regard to the same.

10. One of the criticisms of learned counsel was that the proportion of undertrials mixed with the suspects in the present case was seriously defective and therefore the identification proceedings were not legally and properly carried out. In the present case, it was pointed out to us by learned counsel, forty undertrials were mixed with eight suspects. This, according to the learned counsel, was not a proper and fair proportion of undertrials to be mixed with the suspects. Learned counsel contended that this defect in the proceedings for identification was not pointed out to the jury by the learned Judge. Learned counsel was not able to point out to us any authority in support of the proposition that the proportion of 5 : i between the number of undertrials mixed and the number of suspects was defective in law. We are not aware of any such law, nor has the learned counsel been able to point out to . us any such law. On the contrary, we are clearly of the opinion that the test

afforded by identification proceedings is quite a fair and proper one even if the proportion of suspects to undertrials bears the ratio of 5 : 1 i.e. that if undertrials, or outsiders five times the number of suspects, are mixed with them at the identification parade. We may also observe that it is not a matter where a hard and fast rule has ever been laid down either by this Court or by any other Court. Obviously, a lot may depend upon the circumstances of a particular case.

11. In this connection, learned counsel for the State has invited our attention to the case of the -- 'State v. Wahid Bux and Ors.', (1952) ALJR, 588 decided by a Division Bench of this Court, In that case, it was contended by learned counsel for the accused that the number of persons mixed with the accused at the identification parade should have been ten times. With reference to this argument the learned Judges at page 570 observed thus : "We do not think that there is any such general rule. Of course, it is always better to have as large a number of persons mixed up with the accused as possible. But no hard and fast rule can be laid down and we are of opinion that if five times the number of the accused persons are mixed with them, it cannot be said that there is any flaw in the identification proceedings." Our own view on this matter receives strong support from this decision of a Division Bench of the Court. We would, however, like to add, in passing, that if too large a number of persons is mixed with suspects or accused persons, in a particular case, there might be a danger of putting too much strain on a witness's ability to pick out a suspect. He might get easily bewildered. In our opinion, therefore, all that need be laid down as a safe rule; of prudence is that a fair proportion of outsiders mixed with the suspects, considering the circumstances of the case, should always be insisted upon by every Magistrate who is charged with the duty of conducting identification proceedings.

12. Next, learned counsel contended that the learned Judge had misdirected the jury in that part of the charge where he dealt with the question of the factum of dacoity. We have given careful consideration to this contention of the learned counsel. We are, however, not at all satisfied that what the learned Judge has said in that part of the charge amounts to a misdirection.

13. On giving a careful consideration to the charge to the jury as a whole, we are satisfied that there has been no misdirection committed by the learned Judge. There is no contention in this case that there was "a misunderstanding on the part of the jury of the law as laid down by him." The unanimous verdict of the jury in the present case, therefore, cannot be considered to be erroneous in any way. It is accordingly binding upon this Court. The conviction of the appellants cannot in this view of the matter, be challenged.

14. The next contention of the learned counsel, as already indicated, is to the effect that the provisions of law under which the trial by jury was held are void inasmuch as they violate the provisions of Article 14 of the Constitution which guarantee "equality before the law" or "equal protection of the laws" to every citizen. Section 2G9, Criminal P. C., authorises the Provincial Government (the State Government) to direct by an order notified in the official gazette that the trial of all oflences or of any particular class of offences before any court of Session shall be by jury in any district. By reason of this statutory provision, the Provincial Government (now the State Government) of Uttar Pradesh issued a notification No. 2749-VI-1122-1924 dated 26th August 1924 by reason of which inter alia the offence of dacoity in the district of Bareilly was made triable by

jury. By reason of this notification the present trial of the appellants by jury was held at Bareilly.

15. The crucial question for decision in the present case is whether in providing for a jury trial for the offence of dacoity the State can be said to have denied to the appellants either "equality before the law" or "the equal protection of the laws" within the meaning of these expressions as contained in Article 14 of the Constitution. The effect of the notification by the State Government is undoubtedly this: Only in the six districts of the State specified in the notification can a jury trial be held. Further, in these districts only the trial of the offences in the notification can be held by jury. It is significant that the notification nowhere directs that a particular person, or class of persons, charged with the same offence shall be treated differently.

16. The contention of the learned counsel is that the appellants' right to "equality before the law" guaranteed by the Constitution has been violated inasmuch as in other districts similar conduct on the part of other persons could not be tried by jury. Learned counsel has contended strenuously that discrimination or want of equality before the law which is prohibited by the Constitution has been introduced by the notification in question.

17. The provisions of Article 14 of the Constitution have been considered, and interpreted in quite a large number of cases decided by various High Courts in India including this Court as well as the Supreme Court.

18. In -- 'Deodat Rai and Ors. v. The State', AIR (1951) ALL 718, a Bench of two learned Judges of this Court had to consider the provisions of the U. P. Prevention of Crimes (Special Powers) (Temporary) Act (V of 1949). With reference to the clause "equal protection of the laws" in Article 14, it was held: "What the equal protection clause means is simply this that the same law should govern those similarly circumstanced; it cannot and does not prohibit different laws for those differently circumstanced. The Legislature has full freedom to classify people according to circumstances and enact different laws for different classes; but it must treat equally all similarly circumstanced or falling in one class and the difference in treatment must have some intelligible or rational connection with the difference in circumstances and not be arbitrary. Discrimination among persons in one class or similarly circumstanced, whether apparent on the face of the statute, or resulting in practice, is all that is prohibited under the clause. It is competent for the Legislature to leave it to the discretion of an authority to apply different laws to people in different circumstances but always provided that it lays down a rational standard to guide its discretion or such a standard can be presumed to exist; it cannot leave it to its arbitrary or naked discretion."

19. Again in the case of -- 'Raja Suryapal Singh & Ors. v. The U. P. Government', AIR (1951) All 674, decided by a Full Bench of five learned Judges of this Court, the main question was whether the Zamindari Abolition and Land Reforms Act, 1950 (I of 1951) contravened any provision of the Constitution & was thus invalid on that account. It was held that it did not contravene any provision of the Constitution & was not invalid on that account. One of the contentions raised in that case was that the provisions of Article 14 of the Constitution were infringed by Section 4 (2) of the impugned Act. In that connection, the Full Bench had to consider the scope of Article 14. It was held:

> "Equality before the law" has not the same meaning as "the equal protection of the laws". The former may be denned as the equal subjection of all persons to the ordinary law of the land and the latter as the protection of equal laws. The protection of equal laws does not mean that all laws must be uniform, but it does require equality of treatment 'under like circumstances and conditions'.
>
> "The equal protection of the laws" does not prohibit legislation which is limited either in the objects to which it is directed or by the territory within which it is to operate."

In dealing with this matter, the learned Judges referred to a passage from Willis's Constitutional Law, p. 579, where, with reference to the corresponding words in the Fourteenth Amendment (of the American Constitution) it is stated:

> "The inhibition of the amendment.....was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation. It does not take from the states the power to classify either in the adoption of police laws, or tax laws, or eminent domain laws, but permits to them the exercise of a wide scope of discretion, and nullifies what they do only when it is without any reasonable basis. Mathematical nicety and perfect equality are not required. Similarity, not identity of treatment, is enough. If any state of facts can reasonably be conceived to sustain a classification, the existence of that state of facts must be assumed. One who assails a classification must carry the burden of showing that it does not rest upon any reasonable basis".

20. Next, in the case of -- 'Asiatic Engineering Company v. Achhru Ram and others', AIR 1951 All 746, decided by a Full Bench of three learned Judges of this Court., the validity of the Administration of Evacuee Property Act, 1950 was challenged on the ground that it was discriminatory. Dealing with the provisions of Article 14 of the Constitution, it was laid down by the Full Bench:

> "The expression 'equality before the law' does not imply that the same laws should apply to all persons in the same State. It does not refuse to take note of differentiations in economic and social functions, nor of the need for special types of quasi-judicial tribunals-due to the growing tendency towards the enlargement of state intervention in the economic and social life of the country. The Administration of Evacuee Property Act has laid down a special procedure and constituted special Courts for declaring any property as. evacuee property and that that procedure is of a summary nature is not sufficient to justify the conclusion that there has been any violence of the letter and spirit of Article 14."

Again, it was laid down:

> "The guarantee of equal protection is not to be understood as requiring that every person in the land shall possess precisely the same rights and privileges as every

> other person. The classification must be based upon reasonable ground. It cannot be mere arbitrary selection. What the Article contemplates is. that both in the matter of the laws applicable and the mode in which they are administered, all persons, in like circumstances and conditions should possess the same privileges and be subject to the same liabilities."

21. Next, in the case of -- 'Matrumal Sharrna and Ors. v. The Chief Inspector of Shops and Commercial Establishments', AIR 1952 All 773, decided by two learned Judges. of this Court sitting on the Lucknow Bench, a question arose about the constitutional validity of the U. P. Shops and Commercial Establishments Act (Act XXII of 1947). It was held that the impugned Act did not infringe the principle of "equality before the law" as laid down in Article 14. It was held: "Article 14 of the Constitution aims against the conferment of special privileges at law on account of birth, religion, caste or creed and enjoins equal subjection of all persons and classes of persons to the laws of the land without distinction of race, wealth, social status or political affiliations."

22. Coming to the decisions of the Supreme Court, the first case cited before us is that of -- 'Charanjit Lal Chowdhury v. The Union of India and others', AIR 1951 SC 41. In that case, the Supreme Court was concerned with the question of the validity of Sholapur Spinning and Weaving Company (Emergency Provisions) Act (XXVIII of 1950). With reference to the provisions of Article 14, it was laid down:

> "A law applying to one person or one class of persons is constitutional if there is sufficient basis or reason for it. Any classification which is arbitrary and which is made without any basis is no classification and a proper classification must always rest upon some difference and must bear a reasonable arid just relation to the things in respect of which it is proposed.
>
> "The presumption is always in favour of the Constitutionality of an enactment, and the burden is upon him who attacks it to show that there has been a clear transgression of the Constitutional principles."

At page 47 (para. 18) Fazl Ali. J. observed thus:

> "Article 14 of the Constitution, as "already stated, lays down an important fundamental right, which should be closely and vigilantly guarded, but, in construing it, we should not adopt a doctrinaire approach which might choke all beneficial legislation."

The majority decision in that case was that the Act did not run counter to Article. 14 of the Constitution.

23. The next case is that of -- 'The State of Bombay and another v. F. N. Balsara', AIR 1951 SC 318. In this case, 'inter alia' the validity of Section 39, Bombay Prohibition Act, (Act XXV of 1949) was challenged on the ground that it contravened the provisions of Article 14 of the Constitution. Section

39 provided for special treatment of persons belonging to the armed forces, military and naval messes and canteens as well as warships and troop-ships. Fazl Ali J. delivering the judgment of the Court at page 327 is reported to have observed thus:

> "I think that there is an understandable basis for the exemptions granted to the military canteens, etc., by the Act. The armed forces have their own traditions and mode of life, conditioned and regulated by rules and regulations which are the product of long experience and which aim at maintaining at a high level their morale and those qualities which enable them to face dangers and perform unusual tasks of endurance and hardship when called upon to do so -- qualities such as dash and courage, unbreakable tenacity and energy ready for any sacrifice which should be unfaltering for long days together. By these rules and regulations, drinking among the forces is not prohibited, but it is properly and carefully regulated. It is easy to understand that the legislative chose not to interfere with the mode of life to which the forces have been accustomed, lest such interference should affect their morale and lead to subterfuges which may prove unwholesome for their discipline and good behaviour..... I find therefore nothing wrong 'prima facie' in the legislature according special treatment to persons who form a class by themselves in many respects and who have been treated as such in various enactments and statutory provisions. In my opinion, therefore, Section 39, in so far as it affects the military and naval messes and canteens, warships and troopships, cannot be held to be invalid."

24. The next case is that of -- 'The State of West Bengal v. Anwar Ali Sarkar and Anr.', AIR 1952 SC 75, In this case, the Supreme Court was concerned with the ques tion of the validity of Section 5 (1), West Bengal. Special Courts Act, (Act X of 1950). The validity of Section 5 (1) was challenged on the score of its being discriminatory and thus violating the provisions of Article 14 of the Constitution. It was held;

> "The impugned Act has completely ignored the principle of classification followed in the Criminal Procedure Code and it proceeds to lay down a new procedure without making any attempt to particularize or classify the oiiences or cases to which it is to apply."

The impugned statute, in that case, provided for discrimination in criminal trials and it made provisions for speedier trial of certaino offences. It was held:

> "Speedier trial of offences may be the reason and motive for the legislation but it does not amount either to a classification of offences or cases. The necessity of a speedy trial is too vague, uncertain and elusive criterion to form the basis of a valid and reasonable classification.
>
> "It is no classification at all in the real sense of the term as it is not based on any characteristics which are peculiar to persons or to cases which are to be subject to the special procedure prescribed by the Act. The mere fact of classification is not

> sufficient to relieve a statute from, the reach of the equality clause of Article 14. To get out of its reach it must appear that not only a classification has been made but also that it is one based upon a reasonable ground on some difference which bears a just and proper relation to the attempted classification and is not a mere arbitrary selection.
>
> "A rule of procedure laid down by law comes as much within the purview of Article 14 as any rule of substantive law and it is necessary that all litigants, who are similarly situated, are able to avail themselves of the same procedural rights for relief and for defence with like protection and without discrimination."

25. Next, we may refer to the case of --'Kathi Raning Rawat v. State of Saurashtra', AIR 1952 SC 123. In this case, the court was concerned with the question of constitutional validity of the Saurashtra State Public Safety Measures (Third Amendment) Ordinance (66 of 1949). It was held by the majority of the Court that Section 11 of the Ordinance in so far as it authorises the State Government to direct offences or classes of offences or classes of cases to be tried by the Special Court did not offend against the equal protection clause of the Constitution of India and the notification which has been issued by the Saurashtra Government under that part of the Section cannot be held to be invalid or 'ultra vires'. The decision of the Supreme Court in the case of --'The State of West Bengal v. Anwar Ali Sarkar and Anr.', was distinguished. At page 125 (paragraph 7), Patanjali Sastri, C. J. is reported to have observed thus:

> "All legislative differentiation is not necessarily discriminatory. In fact, the word "discrimination" does not occur in Article 14. The expression "discriminate against" is used in Article 15(1) and Article 16(2), and it means, according to the Oxford Dictionary, "to make an adverse distinction with regard, to; to distinguish unfavourably from others". Discrimination thus involves an element of unfavourable bias and it is in that sense that the expression has to be understood in this context. If such bias is disclosed and is based on any of the grounds mentioned in Articles 15 and 16, it may well be that the statute will, without more, incur condemnation as violating a specific constitutional prohibition unless it is saved by one or other of the provisos to those articles. But the position under Article 14 is different. Equal protection claims under that article are examined with the presumption that the State action is reasonable and justified. This presumption of constitutionality stems from the wide power of classification which the legislature must, of necessity, possess in making laws operating differently as regards different groups of persons in order to give effect to its policies. The power of the State to regulate criminal trials by constituting different Courts with different procedures according to the needs of different parts of its territory is an essential part of its police power (cf. -- 'Bowman v. Lewis', (1880) 101 US 22: (25 Law Ed 989). Though the differing procedures might involve disparity in the treatment of the persons tried under them, such disparity is not by itself sufficient, in my opinion, to outweigh the presumption and establish discrimination unless the degree of disparity goes beyond what the reason for its existence demands as, for instance, when it amounts to a denial of a fair and impartial trial. It is,

> therefore, not correct to say that Article 14 provides no further constitutional protection to personal liberty than what is afforded by Article 21. Notwithstanding that its wide general language is greatly qualified in its practical application by a due recognition of the State's necessarily wide powers of legislative classification, Article 14 remains an important bulwark against discriminatory procedural laws.
>
> Again, "The impugned Ordinance having thus been passed to combat the increasing tempo of certain types of regional crime, the twofold classification on the lines of type and territory adopted in the impugned Ordinance, read with the notification issued thereunder, is, in my view, reasonable and valid, and the degree of disparity of treatment involved is in no way in excess of what the situation demanded."

Again, at page 131, Mukherjea J., observed thus:

> "The nature and scope of the guarantee that is implied in the equal protection clause of our Constitution have been explained and discussed in more than one decision of this Court and do not require repetition. It is well settled that a legislature for the purpose of dealing with the complex problems that arise out of an infinite variety of human relations, cannot but proceed upon some sort of selection or classification of persons upon whom the legislation is to operate. The consequence of such classification would undoubtedly be to differentiate the persons belonging to that class from others, but that by itself would not make the legislation obnoxious" to the equal protection clause. Equality prescribed by the Constitution would not be violated if the statute operates equally on all persons who are included in the group, and the classification is not arbitrary or capricious, but bears a reasonable relation to the objective which the legislation has in view. The legislature is given the utmost latitude in making the classification and it is only when there is a palpable abuse of power and the differences made have no rational relation to the objectives of the regulation, that necessity of judicial interference arises."

Similarly, at page 136, pas J. observed:

> "It is now well established that while Article 14 forbids class legislation it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from, others left out of the group and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act. What is necessary is that there must be a nexus between the basis of classification and the object of the Act."

26. Lastly, we may refer to the case of --'Lachmandas Kewalram and Anr.', AIR 1952 SC 235. In this case, the Supreme Court was concerned with the question of the validity of Section 12, Bombay Public Security Measures Act, (6 of 1947). The majority of the Court held:

> "Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.
>
> In applying the dangerously wide and vague language of the equality clause to the concrete facts of life, a doctrinaire approach should be avoided.
>
> It is now well established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others who are left out of the group and (ii) that the differentia must have a rational relation to the object sought to be achieved by the Act. What is necessary is that there must be a nexus between the basis of classification and the object of the Act."

27. In the light of the authorities referred to above we have to see if, in the present case, the trial of the appellants has been held under the provisions of a law which is discriminatory in character so as to attract the application of Article 14 of the Constitution. By the notification, issued by the State Government, in exercise of the powers conferred by Section 269, Criminal P. C., it is provided, as already mentioned, that (i) only in six districts comprised in the State and (ii) certain specific offences including the offence of dacoity shall be tried by jury. The legislature in conferring this power on the State Government under Section 269, Criminal Procedure Code, clearly intended that the State Government should have full discretion in selecting a district or districts where jury trial might be held and also in particularising the offences or classes of offences which might be so tried. It follows, therefore, that it was intended by the legislature that the State Government shall have full discretion in introducing the system of trial by jury both as regards the territorial limits as well as the offences, or classes of offences, in which such trial was to be held. The State Government in issuing the notification apparently acted with a good deal of caution. This was so in view of the peculiar conditions which existed in different parts of the State. Trial by jury was more or less in the nature of an innovation.

People of the State had to be initiated into the new procedure of trial by jury. The classification made by Government with regard to the districts as also with regard to the specific offences which could be tried by jury was obviously upon the circumstances which existed in different districts and also upon the prevalence or non-prevalence of a certain type of crimes in one part of the State or the other. Introduction of the system both as regards the territory as well as the nature of offences had necessarily to be effected slowly and cautiously. It seems to us, therefore, that the classifications made by the notification in question were based on reasonable considerations. In our view, therefore, the provisions of the notification issued for the trial of the offence of dacoity by jury in the district of Bareilly, where the trial of the appellants was held, were perfectly valid and cannot be impugned on the ground that they introduced discrimination such discrimination as is prohibited by Article 14 of the Constitution.

28. In the end a subsidiary point was also urged by the learned counsel. Learned counsel drew our attention to the notifications: (i) No: 2038/VII-B-15S3-50 dated the 7th of March, 1952, and (ii) No: 6268/VII-B/F-1583-50 by the State of Uttar Pradesh issued on the 18th of July 1951. In substance, what was provided by these notifications was that no jury trial was to be held so far as cases of dacoity were concerned. Learned counsel contended that the effect of these notifications would be that the trial of the appellants already held and completed before the date of these notifications would become vitiated in law. We are clearly of opinion that this contention is devoid of all substance. When the trial of the appellants was held, notification No: 2749/VI-1122-24 dated August 26 1924 was in full force. The mere fact that after the conclusion of the trial of the appellants, the State Government found it necessary to alter its previous notification and provided, that dacoity cases were not to be tried by jury, can have no effect on the trial of the appellants. The new notifications would obviously govern cases which would arise in future after the date of the issue of the notifications. They cannot affect the validity of the trials already held and completed.

29. For the reasons given above, in our judgment, there is no force in this appeal. We accordingly dismiss the appeal and confirm the conviction and sentence of both the appellants.