

Allahabad High Court

Nanoo vs Emperor Through The Municipal ... on 11 December, 1922

Equivalent citations: 71 Ind Cas 359

Author: Piggott

Bench: Piggott

JUDGMENT Piggott, J.

1. The District Magistrate of Agra has referred for the orders of this Court the records of eight cases in which accused persons belonging to the sweeper caste residing within the jurisdiction of the Municipality of Agra have been convicted under Section 299 of the United Provinces Municipalities Act, No. II of 1916, for keeping pigs within the limits of the Municipality without a license and contrary to the provisions of local bye-laws lawfully promulgated for that purpose. The main point taken by the District Magistrate in his Referring Order is, that the prosecution had been instituted under such circumstances that one of the Honorary Magistrates sitting on the Bench which tried the case, was personally interested in the success of the prosecution within the meaning of Section 556, Criminal Procedure Code, or was a party to the prosecution, in the sense that he had caused it to be instituted. I think the explanation of the Magistrate concerned on this point is satisfactory. In his capacity as a Municipal Commissioner he had invited the attention of the Executive Officer to the manner in which the bye-law on the subject of the keeping of swine within Municipal limits was apparently being disregarded. The Executive Officer called the attention of the Health Officer to the matter, and the Health Officer instituted the prosecutions, after satisfying himself that there were good prime facie grounds for believing that the bye-law was being broken and that the interests of the public health required its enforcement. I am not prepared, therefore, to quash the convictions on the grounds suggested by the District Magistrate. I agree with him, however, that the sentences of fine imposed in these cases are on the face of them excessive and out of proportion to the means of the persons convicted. The purpose for which these prosecutions were instituted could, I think, be served without imposing such severe penalties upon ignorant persons. They will understand that persistence in disobeying the bye-law, after prosecution and fine, would deservedly receive far more severe punishment. My order is that in each of the cases now before me the sentence be reduced by dividing by ten the amount of fine imposed by the Trial Court. That is to say, where a fine of Rs. 20 has been imposed I reduce it to Rs. 2, where Rs. 40 to Rs. 4, where Rs. 25 to Rs. 2-8 and so on.