

MANU/BH/0166/1934

Equivalent Citation: AIR1934Pat344, 149Ind. Cas.841

## IN THE HIGH COURT OF PATNA

Decided On: 19.03.1934

Appellants: **(Babu) Murali Manohar Prasad**  
**Vs.**  
Respondent: **Emperor**

### Hon'ble Judges/Coram:

*Courtney Terrell, C.J., Mohamad Noor and Varma, JJ.*

## JUDGMENT

### Mohamad Noor, J.

**1.** The petitioner Murali Manohar Prasad asks us to revise an order of the District Magistrate of Patna calling upon him to furnish security under the following circumstances:

The petitioner is the keeper of a press at Patna and publisher of a newspaper called "The Searchlight." On 7th January 1932, the Local Government acting under the Press (Emergency Powers) Act of 1931 issued two notices upon the petitioner, one under Section 3(3) and another under Section 7(3) of the Act calling upon him in each case to furnish security of Rs. 1,500 before 18th January 1932. Section 3(3) authorises the Local Government to require such security from the keeper of a press and Section 7(3) gives them similar powers on the publisher of a newspaper.

**2.** The reason for the issue of these notices was that in the opinion of the Local Government a certain article published in the paper, "The Searchlight," came within the purview of Sections 4(d) and 4(e) of the Act as amended by Section 3 of the Emergency Powers Ordinance of 1932 which was in force then. The petitioner seems to. have deposited one security as the keeper of the press, but did not deposit any security as the publisher of the newspaper and stopped its publication. The effect of this failure was that under Section 12(3) of the Act the declaration made by him under Section 5, Press and Registration of Books Act, 1867, stood annulled and publication of the newspaper afterwards was liable to the penalties prescribed in the Act of 1897.

**3.** Now the orders of the Local Government were liable to be set aside by this Court on the ground that the article in question did not come within Section 4(1)(d), and (e) of the Act had an application) been filed within two months of the order. No such application however was made to us within the time prescribed nor does the petitioner ask us to revise that order, and taking into consideration the plain words of Section 30 of the Act we have now no jurisdiction to interfere with that order. It is not necessary to discuss the order of the Local Government. The order is not sought to be revised by us now, nor under the law is the petitioner entitled to ask us to do so after the expiry of two months from the date of the passing of that order.

**4.** I have said that the effect of failure to deposit security was the annulment of the declaration made under the Act of 1867. The petitioner later on on 3rd January 1933, made a fresh declaration under Section 5, Press and Registration of Books Act of

1867 before the District Magistrate of Patna. It appears that later on somehow or other it was brought to the notice of the District Magistrate that the newspaper regarding which the declaration was made before him was the one in connexion with which the Local Government had called upon the publisher to furnish security.

**5.** Thereupon on 7th January 1933, the District Magistrate called upon the petitioner to deposit at once a sum of Rs. 1,500 as publisher of "The Searchlight" newspaper. It is not clear from the order whether the District Magistrate was acting under his own powers under Section 7 of the Act, or whether he was enforcing the previous order of the Local Government. Be that as it may, the petitioner deposited Rs. 1,500, and has moved this Court to set aside that order.

**6.** A preliminary objection has been raised by Mr. Jafar Imam, who appears on behalf of the Crown, that this Court has no jurisdiction to interfere with this order of the District Magistrate and, in my opinion, this objection must prevail. It is obvious that the Act under which the District Magistrate purported to act does not give us any jurisdiction against the order of the District Magistrate. Our power of interference is conferred by Sections 23 and 30 of the Act for a limited purpose, to decide whether the publication or article does or does not come within the purview of Section 4(1) of the Act. Mr. Baldeo Sahay urged that we have jurisdiction under Section 107, Government of India Act.

**7.** In my opinion Section 107, Government of India Act, has no application. That section runs thus:

Each of the High Courts has superintendence over all Courts for the time being subject to its appellate jurisdiction, etc.

The District Magistrate when dealing with the Press Act or other similar Acts is not a Court, but an executive officer carrying out the functions on behalf of the executive Government and as such is not subject to our appellate jurisdiction. No appeal has been provided to us against the orders of a District Magistrate when he is carrying out his functions under these Acts, So far as the Press Act under consideration is concerned no appeal has been provided to us from his order.

**8.** It was stated at the Bar that subsequent to the filing of the present application the petitioner asked the District Magistrate to refund the security under Section 7 of the Act, but the District Magistrate refused to do so. That matter however is not before us and even that refusal is not appealable. In my opinion this application is misconceived and must be dismissed with costs; hearing fee two gold mohurs.

**Courtney Terrell, C.J.**

**9.** I agree.

**Varma, J.**

**10.** I agree.

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