Sagolsem Indramani Singh and ors. Vs. State of Manipur

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Court : Guwahati

Decided On : May-26-1954

Judge : Brij Narain J.C.

Appellant : Sagolsem Indramani Singh and ors.

Respondent : State of Manipur

Judgement :

Brij Narain J.C.

(1) Sri Sagolsem Indramani Singh, Sri R. K. Maipak Sana Singh, Sri Yengmaso and Sri Wahengbam Pralhada Singh have brought this appeal against the order of Sri Niladhawaja Singh, Sub-Divisional Officer, Sadar and Magistrate First Class, Manipur dated 12-10-1953 sentencing the convict appellants to 6 months' rigorous imprisonment each, on each of the charges Under Sections 124A and 153A, IPC But the sentences have been ordered to run concurrently. The appellants had also been charged Under Section 120-B, IPC but they were acquitted under the aforesaid charge.

This appeal should, under the provisions of the Code of Crimnial Procedure, 1898, have been filed in the Court of Sessions Judge, Manipur, but as the Code of Criminal Procedure has not been enforced in Manipur under the Merged States (Laws) Act, 1949 and Part C States (Laws) Act, 1950, the provisions of Manipur State Courts' Act, 1947, are applicable where they are against the provisions of the Code of Criminal Procedure and as Under Section 15 of the Manipur State Courts' Act, 1947, which has been amended by Manipur State Courts (Amendment) Order, 1950, it has been provided that when any person is convicted by a Magistrate of an offence Under Section 124A of the Indian Penal Code, the appeal shall lie to the Chief Court (now the Court of Judicial Commissioner, Manipur), the present appeal has been filed under this exception provided in Section 15 of the Manipur State Courts' Act, 1947, enabling the appellants to come to this Court instead of filing their appeal in the Court of the Sessions Judge, Manipur.

(2) The facts of the case are practically admitted that a public meeting was organised at the Polo-ground, Imphal at 3 p.m. on Sunday 19-4-1958 and the appellants published and circulated among the Manipuri public 3 leaflets Exs. P/A, P/B and P/C and according to the prosecution these leaflets were distributed with a view to exciting disaffection towards the Government established by law in India, and also in order to promote feelings of enmity or hatred between Manipuri and non-Manipuri citizens of the Indian Republic residing in Manipur. The resolution Ex. P/T was passed in this meeting in which about 3,000 people had assembled and according to the prosecution no reasonable demands were put forward by means of this resolution and

a threat of launching 'Satyagraha' movement and formation of independent buffer State in Manipur under the U. N. Trusteeship, was held out if the demands mentioned in the resolution were not met within 15 days of the meeting.

The appellant No. 4 read out the written speech of the appellant No. 3 in the meeting as the latter was suffering from some throat trouble. The speeches of the appellant No. 1 were recorded in a reel and notes were taken from the speeches of the appellants by Sri Gopal Singh P.W. 2 vide Ex. P/F. The complaint Ex. P/G was lodged against the appellants by Sri Harendra Kumar Chaudhari, Officer of the Criminal Investigation Department, P.W. 1 on 6-5-1953.

On 22-6-1953 the 4 appellants moved a transfer application No. 4 of 1953 in this Court, and the case was transferred from the Court of the District Magistrate, Manipur, to the Court of some other competent Magistrate on 26-6-1953 and so the former got the Sub-Divisional Officer, Sadar, invested with powers to try cases Under Section 124A, IPC and then this case was transferred to that Court.

(3) Besides Sri Harendra Kumar Chaudhuri and Sri Gopal Singh the procesution examined Nanda-kishore Singh and Pandit Mani Singh as the former was present in the meeting on 19-4-1953 at the Pologround, Imphal, and the latter searched the Churachand Printing Works premises on 24-4-1953 on the basis of a search warrant Ex. P/H and he recovered the speeches Exs. P/J, P/K and P/L along with the printed leaflets Exs. P/O, P/Q and P/R, vide recovery list Ex. P/S. The leaflets Exs. P/D and P/E were published by the appellants Nos. 1, 2 and 3 in the paper 'Mother Manipur' on 17th and 19th April 1953.

(4) The appellants denied that they ever, in any way, excited or attempted to excite disaffection against the Government and they further denied that they ever promoted or attempted to promote class hatred among different classes of people residing in Manipur. The appellants produced no witness in defence, but they filed written statements Exs. D/B, D/D and D/E and the written speech of the appellant No. 2 was also filed by Ex. D/C, while the chit Ex. D/A has been produced to show that Sri Gopal Singh P.W. 2 could not properly write out the speeches swiftly as he writes by left hand and he wrote out the words 'Action for that was taken properly' in Court probably very slowly.

(5) It has been contended on behalf of the appellants that the present proceedings were void because no prosecution Under Section 124A or Section 153-A, IPC could be taken cognisance of by any Court unless a complaint with regard to these allegations had been made by an order or under authority from the State Government or some officers empowered by the State Government in this behalf. Section 196, Criminal P. C, clearly lays down:

No Court shall take cognizance of any offence punishable under Chapter VI (or IX-A) of the Indian Penal Code (except Section 127), or punishable Under Section 108A, or Section 153A, cr Section 294A for Section 295A or Section 505 of the same Code, unless upon complaint made by order of, or under authority from the Provincial (State) Government or some officer empowered by the Provincial Government in this behalf.

(6) The intention of the Legislature is to ensure that no prosecution for an offence specified in Section 196, Criminal P. C, should be lodged except on a complaint

authorised by the Government. Section 196, Criminal P. C, is a disenabling section and must be construed strictly vide — 'In to, Varadarajulu Naidu' AIR 1919 Mad 968 (A). The object of this section is to prevent unauthorised persons from intruding in matters of a State by instituting State prosecution and to ensure that such prosecution shall only be instituted under the authority of the Government vide — 'Queen Empress v. Bal Gangadhar Tilak', 22 Bom 112 at p. 125 (B).

The ruling reported in — 'Oziullah v. Beni-madhab' AIR 1922 Cal 298 (C), lays down that sanction must be signed by the Chief Secretary to the Government and order signed by the Deputy Secretary on behalf of the Chief Secretary in this connection is not legal. In the present appeal the learned Government Advocate has frankly admitted that no sanction Under Section 196, Criminal P. C, was obtained from the Central Government, as required by law under Clause 60 of Section 3 of the General Clauses Act, 1897, which clearly provides that as respects anything done or to be done after the commencement of the Constitution, the 'State Government' shall mean in a Part C State the Central Government.

It has been held in — 'Barjndra Kumaj v. Emperor', 37 Cal 467 at p. 493 (D) that absence of sanction Under Section 196, Criminal P. C, vitiates the whole proceedings. In — 'Varada Rajalu v. Emperor' AIR 1920 Mad 928 at p. 929 (SB) (E) and — 'In re, Venkataramiah' AIR 1938 Mad 138 (P), it was laid down that even a subsequent sanction given for filing the complaint does not fulfill the requirements of Section 196, Criminal P. C, as the law clearly says that it is a condition precedent to the prosecution that sanction shall be obtained from the local Government and it is not open to any subordinate authority to override the provisions of law by saying that the offence falls in any section of the Indian Penal Code and that no sanction is necessary for prosecution under that section, vide — 'Ramnath v. Emperor' AIR 1925 All 230 (G).

The object of sanction Under Section 196, Criminal P. C, is to ensure prosecution only when after due consideration, the appropriate sanctioning authority is satisfied that there is a proper case to put the party on trial, and also to save time of the criminal Court being wasted by needless prosecution without conviction, vide — 'Tuck Saw v. Hain Kee', 4 Low Bur Rul 234 (H), — 'In re, Parameswara Nambudri' AIR 1916 Mad 72 (I). As already pointed out above, no attempt was made in the present case to obtain sanction of the appropriate authority for launching the present prosecution and the proceedings were started by an officer of the Criminal Investigation Department, P. W, 1.

(7) The learned Government Advocate has urged that it was held on 19-11-1951 by this Court in — 'State v. Benoy Singh (J)' that in Manipur obtaining of previous sanction under Section 196, Criminal P. C, from the State Government was not necessary and so no sanction was obtained in this case. I find trom the judgment in — 'the State v. Benoy Singh' (Manipur) (J) that no reasons were given for this view, but it was mentioned in passing judgment that it was not necessary to obtain sanction from the State Government Under Section 196, Criminal P. C. It can be presumed that this order has been supported on the ground that the Code of Criminal Procedure (5 of 1898) had not been extended to Manipur and so tile question of sanction was, therefore, to be governed by the provisions of the corresponding Jaw in force in Manipur State.

The word 'corresponding' has been given a meaning in the Universal English

Dictionary by Wyld as-, 'standing in a similar relation, agreeing with, being equivalent to'. Manipur State Courts' Act, 1947, does not lay down detailed provisions regarding procedure in criminal cases and so practically all the provisions of the Code of Criminal Procedure (5 of 1898) are applied here in criminal cases except when there is a special provision in the Manipur State Courts' Act, 1947, which goes clearly against some provisions in the Code of Criminal Procedure on any particular subject. I have already pointed out above that there is only one provision in the Manipur State Courts' Act, 1947, in connection with the trial of cases under S; 124-A, IPC and it is with regard to the filing of appeal in the Chief Court instead of in the Court of the Sessions Judge and as no special provision has been made in the Manipur State Courts' Act regarding sanction, it becomes clear that the provision of Section 196, Criminal P. C, should govern cases like the present. For these reasons I respectfully disagree with the observation referred to above in — 'State v. Benoy Singh (Manipur) (J)' by Hon. Thakur Lakshmi Narain, Judicial Commissioner.

The prosecution in this case arrested the present appellants on 24-4-1953 under the provisions of the Code of Criminal Procedure and later on the complaint Ex. P/G was filed against them on 6-5-1953. Searches were made in this case under the provisions of the Code of Criminal Procedure and In all these stages of the case provisions of the Code of Criminal Procedure have been followed. Once the prosecution elected to follow provisions of the Code of Criminal Procedure even though this Code was not extended to Manipur and it exercised all the powers which were conferred on various officers by the Code, it seems very unjust to allow the prosecution to urge that any particular provision which was meant to safeguard the legitimate rights and interests of the accused, could be circumvented simply because special provisions of the Manipur State Courts' Act would be applicable where such provisions were at variance with the provisions of the Code of Criminal Procedure,

The law of sanction though it forms part of procedure, in reality contains the provision of substantive law and crimes, vide — 'Fakir Mahomed v. Emperor' AIR 1927 Sind 10 at pp. 15, 16 (K), and so I think the contention put forward by the prosecution that the prosecution was not bound to obtain sanction in the present case, because no provision for obtaining sanction is to be found in the Manipur State Courts, Act, 1947, cannot be accepted, as by not obtaining sanction under 8. 196, Criminal P. C, the appellants were seriously prejudiced, as their case was not examined by the appropriate sanctioning authority and it was not held to be a fit case for being sent to any Court for trial. The result must be unfortunate for the-prosecution, but it is essential that the rules of procedure designed to secure to ensure justice should be scrupulously followed and all Courts should be jealous in seeing that there is no breach. of them. I am, therefore, clearly of opinion that the present appeal should succeed on the ground that no sanction was obtained Under Section 196, Criminal P. C, before the launching of the present prosecution.

(8) The next contention put forward by the-learned Counsel for the appellants is that the prosecution Under Section 124A is void and ultra vires. as being repugnant to Article 19(1) of the Constitution and they are not saved by Clause (2) of Article 19. Section 124-A runs as follows:

Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine

may be added, or with imprisonment which may extend to 3 years, to which fine may be added, or with fine.'

Explanation (1): The expression 'disaffection' includes disloyalty and all feelings of enmity.

Explanation (2): Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation (3): Comments expressing disapprobation of the administrative or, other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

(9) Sedition thus embraces all those practices whether by word, deed or writing which are calculated to disturb the tranquillity of State and lead ignorant persons to endeavour to subvert the Government and the laws of the country. In — '22 Bom 112 (B)', it was pointed out that an offence of sedition consisted in exciting or attempting to excite in others certain bad feelings towards the Government & not exciting or attempting to excite mutiny or rebellion or any sort of actual disturbance great or small. Similarly in — 'Annie Beseant v. Advocate General of Madras' AIR 1918 PC 31 (L), it was held that Section 4 of the Indian Press Act, 1910, was similar in language to Section 124A, IPC which had been subject to careful consideration in — 'Tilak's case (B)'.

In — 'Wallace-Johnson v. King', 1940 AC 231 (M) 'seditious intention' was defined as an inten- tion 'to bring into hatred or excite disaffection against...Government of Gold Coast as by law established'. The Federal Court in — 'Niharendu Dutt V. Emperor' AIR 1942 FC 22 (N) held that in order to constitute seditious acts, words complained of must either incite to disorder or must be such as to satisfy a reasonable man that those were the intentions or tendency.

Section 124-A, Penal Code, thus clearly shows that sedition does not necessarily involve any crea-ition of disorder. The Privy Council overruled the decision in — 'Niharendu's case (N) in — 'King Emperor v. Sadashiv Narayan' AIR 1947 PC 82 (O) and it was held that the law laid down in — 'Tilak's case (B)' relating sedition was good law; vide also — 'Sajani Kanta Das v. State' AIR 1S40 Cal 244 (PB) (Sic); — 'Sachin Das v. Emperor' AIR 1936 Cal 524 (P & Q).

(10) It is now to be seen whether Article 19(a) of the Constitution renders Section 124A, Penal Code, void on account of its being inconsistent with the aforesaid provisions of the Constitution. Article 19 of the Constitution runs as follows:

19(1) All citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(f) to acquire, hold and dispose of property; and ;

(g) to practice any profession or to carry on any occupation, trade or business.

(2) Nothing in Sub-clause (a) of Clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interest of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence....

(11) The present Clause (2) is substituted by Constitution (First Amendment) Act of 1951, Section 3(1) (a). The said clause is to be deemed always to have been enacted in the form given above and therefore its substitution the clause was as follows:

(2) Nothing in Sub-clause (a) of Clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to libel, as well as defamation, contempt of Court or any matter which offends against decency or morality or to undermine security or tends to overthrow the State.

(12) It has been held in — 'Tara Singh v. State' AIR 1951 Punj 27 (R) that Section 124A, Penal Code, has become void as contravening the right of freedom of speech and expression guaranteed by Article 19(a) of the Constitution. The section is not saved by Article 19(2) as the limitation placed by Article 19(2) interferes with freedom of speech, which is a real & substantial right in a democracy. The offence Under Section 124A consists in exciting or attempting to excite in others certain bad feelings 'towards the Government and in some instances at least the unsuccessful attempt to excite, will not| undermine or attempt to overthrow the State.

(13) In — 'Romesh Thappar v. State of Madras' AIR 1950 EC 124 (S), it was also held that the Constitution in formulating varying criteria for permissible legislation imposing restrictions on the fundamental rights enumerated in Article 19(1) has placed in a distinct category those offences against public order, which aim at undermining the security of the State or overthrowing it, and made their prevention the sole justification for legislative abridgment of freedom of speech and expression. Thus, nothing less than endangering the foundation of the State or threatening its overthrow could justify curtailment of the rights of freedom of speech and expression. It has further been held that the deletion of the word sedition from the draft Article 13(2), before the Article was passed as Article 19(2) shows that criticism of Government exciting disaffection or bad feelings towards it is not to be regarded as a justifying ground for restricting freedom of expression and of the press unless it is such as to undermine the security or tend to overthrow the State.

(14) In — 'Brij Bhushan v. State of Delhi' : 1950CriLJ1525 , which was a case under the East Bengal Public Safety Act, 1949, it was laid down that the imposition of precensorship on the journal the 'Organiser' of Delhi was undoubtedly a restriction on the liberty of the press which is essential part of the right to freedom of speech and expression declared by Article 19(1)(a) and for reasons indicated in the Supreme

Court judgment in — 'Romesh Thappar v. State of Madras (S)', such a restriction fell outside the reservation of Article 19(2) and as such was void.

(15) These rulings no doubt support the contention of the present appellants, but as has already been stated above, Article 19 of the Constitution was amended in 1951 and the amended clause is to be deemed always to be enacted in the form in which it now is. It is, therefore, to be seen very carefully whether Section 124A, Penal Code, is void under the amended Clause (2) of Article 19 of the Constitution. In the former Clause (2) the State could make any law relating to any matter which undermines the security or tends to overthrow the State. But under the amended para. 2 the State can make any law imposing reasonable restriction on the exercise of right conferred by Clause (1), Sub-clause (a) of Article 19 of the Constitution 'in the interest of the security of the State, public order, incitement to an offence...'.

(16) The words used in the amendment are no; doubt wider in scope, but it will have to be seen whether Section 124A, Penal Code, would be operative and binding in view of the amendment. It is for the State to show how the provisions of Section 124A, Penal Code, are reasonable and otherwise satisfy the conditions which would make it valid under Clause (2) of Article 19 of the Constitution; vide — 'Brajnandan Sharma v. State of Bihar' : AIR1950Pat322 .

(17) Under Clause (2) of Article 19 of the Constitution reasonable restriction may be imposed by law in the interest of the security of the State, friendly relation with foreign States, public order, decency or morality or in relation to contempt of Court defamation or incitement to an offence. Unless the restriction is for one of the purposes mentioned in the clause and is also reasonable, it would be ultra vires.

(18) A careful perusal of Article 19(2) of the Constitution makes it clear that reasonable restriction on freedom of speech and expression can be imposed in the interest of the security of the State and so it is to be considered whether if by mere spoken or written words or signs or visible representation or otherwise disaffection towards the Government is brought about or attempted to be brought about, any restriction can be placed under Clause (2) of Article 19 of the Constitution. The question would come to this whether any attempt to excite disaffection would amount to working against the interest of the security of the State. Even though 'Public order' has been added it can hardly be expected that mere criticism of Government without inciting to any offence would be punishable in the interest of 'Public order'.

In 'Niharendu Dutt v. Emperor (N)', it was held that mere criticism or even ridicule of the Government is no offence unless it is calculated 'to undermine respect for the Government In such a way as to make people to cease to obey it and obey the law, so that anarchy can follow...

Public order or the reasonable consequence of likelihood of public disorder, was held to be the gist of the offence. I am, therefore of opinion that the restriction of the right of freedom and expression of speech in so far as a speech merely tends to excite disaffection towards the Government would not be reasonable and to this extent Section 124A, Penal Code, must be held to be ultra vires and inoperative as being repugnant to Article 19(1) (a) and (2) of the Constitution.

But so far as the question of imposing restriction on speeches or other representations which tend to bring the Government into hatred or contempt as

distinct from mere criticism or even ridicule the position appears to be different. Even honest criticism can sometimes cause disaffection, but by bringing the Government into hatred or contempt the interests of the securtiy of the State are likely to be jeopardised. As the restriction of freedom of speech or expression on a person who brings or tends to bring into hatred or contempt the Government established by law in India is for one of the purposes mentioned in the amended Clause (2); of Article 19 of the Constitution and it is also reasonable, it cannot, in my opinion, be held ultra vires. I, therefore, hold that the entire Section 124A cannot be deemed to be ultra vires. Only the portion which seeks to impose restriction on exciting mere disaffection or attempts to cause disaffection is ultra vires,

(19) I now proceed to see whether Section 153A, Penal Cod, has been rendered inoperative by Article 19(2) of the Constitution. Section 153A runs as follows:

Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes, or attempts to promote feelings of enmity or hatred, between different classes of the citizens of India, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation: It does not amount to an offence-within the meanings of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of citizens of India.

(20) A careful reading of the section shows that a reasonable restriction has been imposed in this section for whosoever promotes or attempts to promote the feelings of enmity or hatred between different classes of citizens of India to the extent of endangering public order cannot be protected by Clause (2) of Article 19 and so this section can also be deemed not to be wholly ultra vires in view of the amended Clause (2) of Article 19 of the Constitution. I hold that the rulings mentioned above which were given before the Amendment Act of 1951 came into force, cannot render Sections 124A and 153A, Penal Code, ultra vires.

(21-22) (The Judicial Commissioner after examing & holding that the evidence produced by the prosecution did not go to establish that the appellants committed any offence Under Sections 124A and 153A, Penal Code, proceeds to state:) Now the question remains whether the three leaflets Exs. P/A, P/B and P/C are sufficient for conviction of the present appellants and whether the resolution published in the 'Mother Manipur' on 21-4-1953 Ex. P/T is sufficient to establish the case against the appellants Under Section 124A, Penal Code.

The following extracts from pamphlets Exs. P/A to P/C have been objected to:

1. Today many Mayangs of all ranks and file have come into Manipur one after another. Not only pieces of earthen pots are shown again and again but enmity is caused among those persons who do not see save their interest and thereby causing disunity among the people, (from Ex. P/A)

2. Today not only the outsiders are trying to suppress us but also some of our country men are trying to produce washermen, barbers and coolies, (from Ex. P/C)

3. But unfortunately today we have been kept in such miserable condition as if

putting in a frying pan in the hands of one or two refugees who have been turned out by the Mohammadans.

4. Every State has its own self-government while we have been entrusted in the hands of two or three refugees. The price of rice rises upto Rs. 40/- or Rs. 50/-. It is not yet 10 months from that time that the price was reduced to Rs. 20/- or Rs, 22/- per maund.' (from the reel Ex. P/P held to be not proved.)

(23) I have been taken through these 3 pamphlets at the time of arguments and various translations have been given of these pamphlets and the main controversy centres round the word 'Mayang'. On behalf of the prosecution it has been urged that the word 'Mayang' means non-Manipuri and so by using this word in the context referred to above the appellants sought to promote feelings of enmity or hatred between different classes of citizens of India. The learned Counsel for the appellants has urged that the word 'Mayang' only means an inhabitant of thickly populated part of our country, i.e. (West Bengal or U. P.) and it is not synonymous to non-Mani-puri. As such it has been contended that the word 'Mayang' does not form any class, and simply because the appellants felt that Manipuris should have a hand in the Government of their State, it cannot be inferred that the present appellants intended to excite feelings as between Manipuris and non-Manipuris,

It has been laid down in — 'Jang-I-Azad, Lahore, in the matter of AIR 1948 Lah 6 (SB) (V) that a general criticism of certain officer or officers cannot be deemed to be a criticism of Government established by law and order in British India, and as it has not been shown to me by the prosecution conclusively that the word 'Mayang' defines any particular class of people, I think the present appellants cannot be deemed to be guilty Under Sections 124A and 153A, IPC simply because they used the word 'Mayang' in the leaflets Exs. P/A to P/C.

In — 'Newspaper 'Daily Pratap' an Urdu Daily of New Delhi, in the matter of AIR 1950 East Punj 150 (SB) (W), it was held that the similarity of phraseology employed in Section 124A, I.P.C., Rule 34(6) (e), Defence of India Rules, and Clause (d) of Section 4(1), Press (Emergency Powers) Act, shows that the offence of sedition described in the Penal Code has for its ingredients the same elements which constitute a prejudicial act within the meaning of the Rule 34(6), Defence of India Rules, and these ingredients are also common to the mischief envisaged by Clause (d) of Section 4(1) of the Press Act. The first section taken and read as a whole is not to be regarded as intended to minister to the mere vanity or susceptibilities of Government or its officers, but permits reasonable criticism, comments and ventilation of grievances although the same may generate and excite some amount of resentment or disapprobation against the Government provided that such resentment or disapprobation does not generate or excite mere passion or hatred or contempt or disaffection.

In — 'Sodhi Pindi Das v. Emperor' AIR 1938 Lah 629 (X), it was held that the speeches which amounted to exhortation to the hearers to join Communist or Bolshevik party is not in itself seditious within the meaning of Section 124A, IPC vide also — 'Kamal Krishna v. Emperor' AIR 1935 Cal 636 (Y). In view of these rulings and also in view of the fact that on taking into consideration the reasonable and natural effect of Exs. P/A to P/C as contemplated in — 'AIR 1936 Cal 524 (P & Q) and — 'Hemendra Prosad v. King Emperor' AIR 1927 Cal 215 (Z), I think these pamphlets do not show that the present appellants ever brought or attempted to bring the Government established by

law in India into hatred or contempt, and that they did anything to disturb the security of the State or public order.

(24) Regarding the question whether the present appellants preached creation of independent buffer State under the U. N. Trusteeship in Manipur, a glance at the paper 'Mother Manipur' dated 21-4-1963 shows that this contention is not well founded and all that they mentioned in the paper was that some peace and democracy loving sections of the people were on the verge of launching movement to establish an independent buffer State. This clearly does not mean that the present appellants wanted anybody to establish any Independent buffer State.

This paper clearly shows that the following 4-resolutions Ex. P-i were passed at the meeting:

1. To immediately take all necessary actions to- prevent the threat of famine and to reduce the prices of rice and paddy to Rs. 8/- and Rs. 5/- per maund respectively.

2. To announce to the effect that the full responsible form of Government based on adult franchise should be immediately established in Manipur by a declaration within 15 days from this day (19-4-1953). Further this meeting strongly protests against the setting up of a nominated Council of Advisors.

3. As a step to responsible Government a popular Ministry elected by the members of the? Electoral College of Manipur be transformed into a Legislature, may be suggested. Along with this, Government of India is strongly demanded to immediately replace non-Manipuri officers holding the key posts of heads of Departments, by the local talents.

4. To cause an immediate completion of the pavment of the compensation of the war damaged people of Manipur.

(25) Even if any non-violent movement was to be started by other groups and it was to be started by some members of the public, the present appellants could not legally be deemed to be guilty either Under Section 124A or Under Section 153A, IPC in view of what I have said above.

(26) Even if it be believed for a moment that the present appellants criticised some of the officers in a strong language and they could not appreciate that for running of administration, able and experienced officers are required, the appellants could not be deemed to have intentionally attempted to bring the Government established by law into hatred or contempt nor they can be held to have promoted enmity between different classes of citizens of the Indian Republic.

(27) The offence Under Section 120B was held to be not proved against any of the appellants and so they were acquitted by the learned Magistrate under that section. The prosecution should have proved in the present case specifically which particular appellant committed offence Under Sections 124A and 153A by laying stress on particular passages or words, but this also had not been done.

(28) In view of my findings above the charges Under Sections 124A and 153A, IPC were not established against the present appellants beyond all reasonable doubts, and so I allow this appeal and I set aside the conviction of the appellants and as well

as the sentences which have been imposed ou them under these sections. The appellants are already on bail. They need not surrender as their bail bonds are discharged.