

## APPELLATE CRIMINAL

Before Bhandari, C.J. and Khosla, J.

STATE,—Appellant

versus

SHRI B. D. MEATTLE AND OTHERS,—Respondents

Criminal Appeal No. 44-D of 1955.

1956

Nov. 23rd

*Industrial Disputes (Appellate Tribunal) Act (XLVIII of 1950)—Section 29—Offence under, when punishable—Tribunal's award against workers—Appeal taken to the Appellate Tribunal against the award—Appeal pending—Business running in heavy loss—Mills closing down and workers dismissed—Such dismissal if offends section 29.*

Held, that a criminal offence is only committed when an act which is forbidden by law is done voluntarily. English jurists give the name of *mens rea* to the volition which is the motive force behind the criminal act. If there is no *mens rea* no offence is committed although the act may prove detrimental to an individual or individuals. It is only voluntary acts which amount to offences. If a person is compelled by force of circumstances to perform an act forbidden by law he cannot be said to do it voluntarily and therefore he will not be held liable for the consequences of that act. An involuntary act may give rise to a civil remedy by an aggrieved person but it will certainly not amount to an offence which is punished at the instance of the State.

*Appeal against the order of Shri Gopal Saran Das, Magistrate. 1st Class, Delhi, dated the 11th April, 1955, acquitting the accused.*

BISHAMBAR DAYAL, for Appellant.

RANG BEHARI LAL, for Respondents.

## JUDGMENT

Khosla, J.

Khosla, J.—This is an appeal by the State against an order of the learned Magistrate of

Delhi whereby he acquitted the four respondents of an offence punishable under section 29 of the Industrial Disputes (Appellate Tribunal) Act, 1950.

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The facts of the case are that there was a dispute between the employers and the employees of the Crown Flour Mills. This dispute was referred to the Industrial Tribunal and the award of the Tribunal was against the workmen. An appeal was taken to the Appellate Tribunal and while the appeal was pending a notice was sent by the management of the Flour Mills to 87 workmen informing them that the mill was being closed down with effect from the morning of the 12th March, 1954 and that therefore the services of these 87 workmen were being terminated. The management had not previously obtained the permission of the Appellate Tribunal before taking this step and so the four respondents were prosecuted for the offence punishable under section 29 of the Act. It was alleged by the prosecution that they had deliberately dismissed the workmen while their appeal was pending before the Appellate Tribunal.

The learned trial Magistrate came to the conclusion that this was not a case of *mala fide* dismissal and that the Mill was closed down because owing to conditions over which the management had no control, heavy losses were being sustained. He, therefore, acquitted the four accused persons.

It is quite clear that section 29 of the Act makes punishable a criminal offence. A criminal offence is only committed when an act which is forbidden by law is done voluntarily. English jurists give the name of *mens rea* to the volition

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the permission of the Appellate Tribunal. The object of section 22 is to safeguard the interests of the workmen and to keep them secure from any kind of victimisation by the employers while their dispute is pending before the Industrial Tribunal. In the present case there can be no question of victimisation. For two successive years the respondents had suffered heavy losses in the running of the Mill. They found themselves unable to carry on the business because conditions suddenly altered by the devaluation which came into force on the 1st March, 1954. The Mill was not a charitable institution designed to make payments to workmen when such payments could not result in any profitable business.

In this view of the matter it cannot be said that the act of the respondents in closing down the Mill and terminating the services of the 87 workmen was a voluntary act which contravened the provisions of section 22. That being so, the respondents cannot be said to have committed any offence. I would, therefore, uphold the order of the learned trial Magistrate and dismiss the appeal.

BHANDARI, C.J.,—I agree.

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#### CIVIL MISCELLANEOUS

*Before Bhandari, C.J.*

RAMESHWAR NATH GUPTA,—*Petitioner*

*v.*

SHRIMATI KANTA DEVI, ETC.,—*Respondents*

**Civil Miscellaneous No. 285-D of 1956.**

*Hindu Marriage Act (XLIII of 1954)—Section 24—  
Petition for dissolution of marriage filed by the husband  
under sections 10 and 13 of the Act—Wife's application*

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**Nov. 26th**