

PUNJAB AND HARYANA HIGH COURT

Arsem Lal Shanti Ram

Vs

State

(Gosain, J.)

16.12.1958

JUDGEMENT

Gosain, J.

- (1.) THIS is a reference with recommendation by the learned Additional Sessions Judge, Ambala, for quashing the conviction and sentence of the petitioner Tarsem Lal.

(2.) THE petitioner was prosecuted under section 13 of the Public Gambling Act and convicted by Magistrate Ist Class, Rupar and sentenced to pay a fine of Rs. 20/- ; in default of payment of fine he was to suffer 15 days' simple imprisonment. On revision the Additional Sessions Judge found that the conviction and sentence of the petitioner were not sustainable. The story for the prosecution appears to have been that Head Constable Shankar Dass getting information of unbecoming activities of Tarsem Lal relating to his indulging in Satta gambling organised a raid party. Asa Ram was employed as a decoy (bogus punter) with a direction that he was to stake annas-/10/- on number 15 annas-/3/- on number 16 and annas-/2/- on number 100. One rupee currency note Exhibit P. 1 was handed over to him for the purpose. The petitioner was approached by Asa Ram and the currency note was passed on to the petitioner with the necessary said directions. The petitioner is alleged to have made an entry regarding the stake on a slip Exhibit P. A. It is immediately thereafter that the Head Constable was signaled who along with the other members of the raid party arrived and carried out a search and took into possession from the petitioner one rupee currency note, Exhibit P. 1, pencil Exhibit P. 2, slip Exhibit P. A. and cash amounting to Rs. 5/13-. It is on these facts that the prosecution maintained that offence under Section 13 of the Public Gambling Act had been made out and as said succeeded in getting the petitioner convicted under section 13 of the Public Gambling Act. It is apparent that these facts do not constitute the offence under section 13 of the Public Gambling Act. At best it was merely a preparation which is not culpable. That apart, it is not understood as to how merely entering on a chit the alleged stakes could constitute gambling as envisaged under section 13, of the Public Gambling Act. Nor on the uncorroborative evidence of decoy punter any conviction could be sustained. After examining the material on the record and hearing counsel and for the facts and

recommendations of the Additional Sessions Judge, Ambala. I am satisfied that the conviction of petitioner Tarsem Lal could not be maintained. The revision must therefore succeed and the order of conviction and sentence of the petitioner set aside. I order accordingly. Revision allowed. ;