
CASE SUMMARY: KANWAR SINGH VS DELHI ADMINISTRATION

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CASE: Kanwar Singh v. Delhi Administration, 1965 AIR 871, 1965 SCR (1) 7

BENCH: J.R. Mudholkar, Raghubar Dayal and S.M. Sikri, JJ.

PROCEDURAL HISTORY:

Appellant- Kanwar Singh Respondent- Delhi Administrator Eight persons were tried by the Assistant Sessions Judge, Delhi, for offences under s. 148, s. 333/149, and s. 332/149 of IPC¹, acquitted five of them but convicted the three appellants for 3 years of rigorous imprisonment.

In appeal the Additional Sessions Judge, Delhi, set aside the convictions and sentences passed on the appellants for offences under s. 148 and s. 333/149, altered the conviction of each of the appellant from one under s. 332/149 to s. 322 simpliciter and awarded the same sentence in respect of it as had been awarded by the Assistant Sessions Judge in respect of the offence under s. 332/149.

This is an appeal by special leave from the summary dismissal of the appellants' application for revision by the High Court of Punjab.

FACTS: The members of a raiding party led by the licensing inspector of the Delhi Corporation, while taking the stray cattle about 25 to 30 consisting of buffaloes and cows to the cattle pound, were beaten by the appellants. As a result, the members had received the injuries. Eventually a report was lodged with the police, investigation was taken up and the appellants and the other accused were placed before a First Class Magistrate, who, after making a preliminary enquiry, committed them for trial by the Court of Sessions.

¹ Indian Penal Code, 1860 (Act No. 45 of 1860)

ISSUES:

It was contended by the appellants that:

1. The raiding party had no proper delegation of authority to seize and impound the cattle;
2. The said cattle were not 'abandoned' or 'ownerless,' therefore could not be legally impounded;
3. The appellants who were the owners of the cattle had a right of private defence of their property.

HOLDINGS:

1. The commissioner had authorised the licensing inspector to impound the stray cattle.
2. The word 'abandon' under Section 418 of the Delhi Municipal Corporation Act, 1957, was not intended to state that the cattle must be 'ownerless'.
3. The appellants had no right of private defence as the act was fully justifiable by the law.

RATIONALE:

1. The Commissioner had authorised licensing Inspectors to impound stray cattle. Section 418(1) of the Delhi Municipal Corporation Act, 1957², did not require that the delegation of power must be to a particular, named, individuals. Nor was the personal presence of the Commissioner to supervise the exercise of the delegated power necessary.

The section does not require the names of the particular officers in whose favour the delegation is made to be mentioned. What it requires is to specify the officers to whom the power is delegated. This only means that the designation of the officers to whom the power has been delegated need only to be mentioned. That has been done. We may add that s. 491 of the Delhi Corporation Act permits delegation to any municipal officer or employee and, therefore, specific individual authorisation is not necessary.

It is sufficient to say that "shall subject to my supervision etc.," does not mean "under my supervision etc." All that the order contemplates is that the delegation of power to the municipal employees is not absolute but subject to the overall authority of the Commissioner. This cannot

² Central Act 66 of 1957

mean that whenever a delegated power is being exercised by the municipal employee the Commissioner shall be required to be present.

2. The meaning to be attached to the word 'abandoned' would depend upon the context in which it is used. In the Oxford Dictionary the word is also said to mean "to let loose; to set free; to liberate". Several other meanings of the word have been given both in that dictionary as well as in Wharton's Law Lexicon. In the latter as also in Jowitt's The Dictionary to English Law under 'abandonment' are given cases from which it would appear that different meanings have been given to 'abandonment' in different statutes. In the context in which it occurs in s. 418(1), the meaning which can reasonably be attached to the word "abandoned" is 'let loose' in the sense of being 'left unattended' and certainly not 'ownerless'.

This is implicit in the proviso to sub-s. (1) of s. 418 which says that any one 'claiming' an animal which has been impounded under that sub-section can, within 7 days of seizure, get it released on fulfilling certain conditions. Such a claim could only be made by a person who is the owner of the animal impounded or who has at least the custody of the animal.

3. Upon the finding that the raiding party was entitled in law to impound the cattle no question of private defence arises. For, s. 99 of IPC specifically says that there is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by the direction of a public servant acting in good faith under colour of his office.

DICTIONARY:

It is the duty of the court in construing a statute to give effect to the intention of the legislature. If, therefore, giving its literal meaning to a word used by the draftsman, particularly in a penal statute, would defeat the object of the legislature, which is to suppress a mischief, the court can depart from the dictionary meaning or even the popular meaning of the word and instead give it a meaning which will 'advance the remedy and suppress the mischief'.³

CRITICAL APPRAISAL:

In the second issue it is indicated by the bench that the meaning of a word is dependent upon the context in which it is used. That says that a word having different meanings in the dictionary can be used by the parties as it may suit their case. The appellants relied on the dictionary

³ Maxwell on Interpretation of Statutes, 11th edn. pp. 221-224 and 266

meaning of the term which means complete leaving of a thing as a final rejection of one's responsibilities so that it becomes ownerless. Observing that the dictionary meaning of the term *abandoned* was not the correct sense in which the legislature had used the term, the SC held that *abandoned* means *left unattended* or let loose in the present context of the statute. Acceptance of the dictionary meaning would destroy the primary purpose of the Act itself which could never be the intention of the legislature. This may suggest that dictionary cannot be taken as reliable external aid of the interpretation.