

# INDIAN HIGH COURT JUDGMENT (CONTD. FROM PAGE 8)

pervent more abuse of the process of the Courts.

## Passages Complained against by Ahmadiyya Community

I pass now to the petition presented by Captain Mirza Sharif Ahmad. The petitioner asks for the removal on various grounds of no less than eighteen passages.

I see no justification for the deletion of the first three passages, referred to A.B. and C in the petition, which appear to be simple statements of facts historical and proved.

The fourth passage (D) runs as follows:-

"There was naturally some opposition and the majority of Mohammadians resented the arrogation of religious supremacy by the Ahmadi founder. Non-believers in the new fangled religion vehemently repelled the accusation of *Kafar* which was bestowed on them by the Mirza.

The Qadianis, however, remained heedless to these foreign criticisms and secure in the local safety of their home town, flourished as well as they could in the circumstances. This comparative security of their position gave birth to pride amounting almost to arrogance on the part of the Qadianis.

In order to enforce their argument and further their cause they called into play weapons which would ordinarily be termed highly undesirable. They not only intimidated the persons who refused to come within their fold with boycott and excommunication and occasionally threats of something worse, but they frequently fortified the process of proselytizing by actually carrying out these threats.

"A volunteer corps was established in Qadian with the object probably of giving sanction to their decrees".

### Calculated Offend

The use of the word "arrogation" in the first sentence is consonant with the language throughout the judgment, but there is no strong ground for removing it. In the second sentence the word "new fangled" is objectionable. It calculated to offend the followers of the Qadiani religion although possibly the learned Judge did not intend to be derisive when he used it. As already noticed the merits of the Qadiani or any other religion were not before the Court and were wholly irrelevant matters for the purpose of the trial. All revealed religions must be at one time be new. I cut out the word 'new fangled'.

### Whole Sentence Unnecessary

The next words objected to before me are:-

"This comparative security of their position gave birth to pride amounting almost to arrogance on the part of the 'Qadianis'". This statement is based on the evidence generally oral and documentary, and though the language might well have been more moderate and the whole sentence is unnecessary I cannot see proper grounds for deleting these words. In the behaviour of the Qadianis about which evidence has been given the learned Sessions Judge has found reasons for mitigating the sentence he has imposed. Whether he was right or wrong in this decision is a question which cannot be raised in a petition of this kind. The learned Judge had authority in at least one judgment of this Court, *Crown v. Raj Pal* (I.L.R. 7 Lah. 15) for the proposition that it is open to a person accused of an offence under Section 153-A.I.P.C., to plead the truth of the statements, for making which he is prosecuted, for the purpose of showing his real intention in making them, and in support of a plea for mitigation of sentence. The explanation to Section 153-A itself appears to predicate this and no authority has been cited for the view that evidence of the offending words is not a relevant matter for the purpose of a trial under that section. I am not, therefore, prepared to say here that the trial Magistrate was wrong in allowing the production of evidence to prove the truth of the assertions made by the respondent in his speech, and that therefore any inference by the learned Sessions Judge drawn from this evidence must be regarded as irrelevant. On the other hand there can be no doubt that to make such evidence relevant there must be some proximate relationship between the fact urged in support of the plea and the action for which the accused has been prosecuted. If evidence is put forward to prove some fact wholly unrelated to the circumstances of the alleged offence, which, if proved, could not show that the action of the accused was honest or that he had provocation or some other excuse for his action, then that evidence

would certainly be irrelevant and the retention in a judgment of remarks based on it may, if they adversely affect a person, or are otherwise offensive or unnecessary, be such an abuse of the process of the law as to warrant their being expunged.

### Volunteer Corps

I come to the words "In order to enforce their argument and further their cause they called into play, weapons which would ordinarily be termed highly undesirable. They not only intimidated the person who refused to come within their fold with boycott and excommunication and occasionally threats of something worse, but they frequently fortified the process of proselytizing by actually carrying out these threats. A voluntary corps was established in Qadian with the object probably of giving sanction to their decrees". This is not altogether an accurate description of the evidence. There is no evidence that the Qadianis intimidated persons who refused to come within their fold other than persons belonging to their community who had left it or had quarrelled with them. There is ample evidence, of which there is corroboration in the statement of the Mirza Sahib himself, that persons who had become obnoxious to the community were excommunicated or forced by social pressure to leave Qadian though there is very little to indicate that this pressure was brought to bear illegally. So far as "threats of something worse" are concerned there is the evidence (see) Abdul Karim that he was threatened with death. The learned Sessions Judge has believed this. I have already referred to the evidence about the volunteer corps. There was a corps, but there is no evidence that it was illegally employed and there is no basis for the remark that it was established probably to give sanction to the decrees of the community. I do not think it necessary to expunge this passage.

The fifth and sixth passages (E and F) contain remarks based upon evidence. It is proved as I have already noticed that the Qadiani courts dealt with criminal and civil cases, awarded punishments and passed and executed decrees, but it is not proved that they did so illegally or that they dealt with disputes between others than Qadianis. It is difficult to understand why the learned Sessions Judge has found in these facts ground for mitigating the punishment in this case. He has, however, done so and that ends this particular matter. There is no proper ground for deleting the passages F. 1 and F. 2.

### Beaten With Good Reason

The passage G is as follows:-

"Bhagat Singh, D. W. 49, stated that he was assaulted by the Mirzais. One Shah Gharib was beaten by the Qadianis and when he tried to start a case nobody came forward to give evidence on his behalf".

It is contended that the learned Sessions Judge has wrongly attributed the acts of individuals to the whole community and the evidence does not bear out the statement about Gharib Shah. The evidence of Bhagat Singh is that he was beaten by an Ahmadiyya missionary and others after an altercation with an Ahmadiyya *muballigh*. It is of course possible that he was beaten with good reason.

As regards Gharib the evidence is that he was a missionary of the Ahrars and was beaten by the Ahmadi (Feroz Din, Head Constable, Qadian, P.W. 6), and was threatened with beating by fifty or sixty Ahmadi. I can find no evidence that no one came forward to give evidence for him. There is, however, no good reason for deleting this passage which injures no one now.

The next passage objected to (G.1) is:- "Decrees of Court are enforced and there is one instance of a decree for the sale of a house having been executed. Privately stamped paper is manufactured, sold and used for petitions to the Mirza".

There is evidence that a house was sold after a decree had been given, though it is not clear that the sale was enforced. Privately stamped paper was manufactured (but this has been discontinued). The contention of the petitioner is that the stamped paper was for petitions to be presented to the President of the Local Anjuman and not to the Mirza Sahib. The Mirza Sahib was the final Court of Appeal in some cases and I see no reason for deleting these words.

### Abdul Karim

The next two passages (H and I) which the court is asked to expunge run as follows:-

## From a Smoker of Craven 'A'

"I used to smoke... cigarettes for a considerable time. These played me up so I changed and went on to... The same thing happened. One day I read your advertisement and decided to try Craven 'A'. These really did appeal to me and perhaps, sad to relate, I found myself going back to the same old number per day. Then I realised that they were having no effect on my throat and that I was without the usual dry mouth after a day's smoke. Thanks are due to Craven 'A'."

(The original letter can be verified)



This Smoker found that Craven 'A' were the only Cigarettes which did not affect his throat.

# CRAVEN 'A'

CORK-TIPPED... 100% VIRGINIA  
In "CELLOPHANE" Wrapped 50's Flat Tins;  
Also in the Patent TRU-VAC TINS of 50

Made specially to prevent sore throats

Made in London, England by Carreras Ltd. 148 years' reputation for Quality

## How to rear a perfect child

### DO YOU KNOW

THAT an adequate supply of Vitamin D is necessary for perfect bone-formation?

THAT rickets is caused through a deficiency of Vitamin D in baby's diet?

That mal-formation and premature decay of teeth are due to an insufficiency of Vitamin D?

That provision may be made against these disorders by putting your baby on the 'Allenburys' Foods?

# 'Allenburys'

The Progressive System of Infant Feeding

The 'Allenburys' Foods are obtainable through the local Chemists, Stores, etc.

Agents: **Mitchell Cotts & Co. (East Africa) Ltd.**  
P. O. Box 664,  
Corner House, Hardinge Street, Nairobi.

(H) "Then we have the most serious case of Abdul Karim, whose story is a veritable tale of woe. This man embraced the Ahmadiyya religion and went to Qadian. There, however, he became a prey to religious doubts and renounced the Ahmadiyya faith. Then his prosecution (*sic*) started. He began to edit a paper called '*Mubahala*' which aimed at criticising the cult of the Ahmadiyya community. The Mirza in a speech reported in Exhibit D. Z/39, prophesied and compassed the death of the publishers of the '*Mubahala*'. This speech made reference to the people who were ready to kill for the sake of their religion. A murderous attack was made on Abdul Karim soon after this, but he escaped".

(I) "The death sentence was in fact carried out and after his execution the dead body was brought to Qadian and buried in great style in what is called the *Lahishi Magbara* (the heavenly graveyard). The murder was extolled and the act of the murderer was praised in *Al-Fa'al*, the organ of the Ahmadiyya community. It was given out that the murderer was not guilty and that he had escaped the culmny of death by expiring before the event. God in His justice had thought fit to take away his life before he underwent the ignominy of hanging. The Mirza when examined in Court with

respect to this incident told a different tale and stated that the murderer of Mohammad Hussain was given a decent burial as he had repented of his offence and was purged of his sin. Exhibit D. Z/40, however, contradicts this and the intentions and attitude of the Mirza are plain from the expression of his views as set out in D. Z/40. Incidentally the contents of this document amount to contempt of the Lahore High Court".

Reference has already been made to Abdul Karim and his story. It is true that the story is a tale of woe, but his own behaviour seems to have been partly the cause of his afflictions. The evidence is that he was an Ahmadi and settled in Qadian in 1934. He renounced the Qadiani faith in 1914 and fourteen years later started the '*Mubahala*', in which he denounced the Qadianis. Conditions in Qadian (which town as already noted belongs to the Mirza Sahib's family) were made so difficult for him that in March, 1930, he left his house and after spending a night in the shelter of the Kbalas Boarding House was escorted by the police to Gurdaspur. On the 21st March 1930, the Khalifa delivered a sermon (Ex. D. Z. 39) in which speaking of some hypocrites who had severed themselves from the community and were carrying on foul propaganda

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