



**CASE COMMENT ON
AVTAR SINGH V. STATE OF
PUNJAB**

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When a decision regarding an unforeseen aspect of any statute is to be taken, the path opted by the judge dictates its future and the result of any similar case arising thereafter. When all is said and done, no matter which path is chosen, the goal of the judiciary can be understood from Lord Blackstone's words "the law holds it better that ten guilty persons escape, than that one innocent party suffer."¹ The rules of interpretation bring forth guidelines and their proper use converts a simple judicial procedure into a groundbreaking judgment. Those rules are:

- (i) The literal rule
- (ii) The golden rule
- (iii) The mischief rule

The rule to be used depends upon the fact that which one interprets the will of the lawmakers in the best way according to a scenario but that might not necessarily be the one the judge implements. Avtar Singh vs State Of Punjab is one of such cases which show that what law says and what it intends vary with time and

circumstance as the rationale of the society evolves.

FACTS :

In this case, Avtar Singh was convicted by the Punjab High Court for the theft of electricity under Section 39² and Section 50³ of the Indian Electricity Act(9 of 1910) for the dishonest abstraction, consumption and usage of energy. Avtar Singh appeals to the Supreme Court regarding the same but changes his contention by challenging that his prosecution was instituted by a person not mentioned in Section 50 of the act which deals with the same. Matters relating to the Indian Electricity Act (9 of 1910) had come up before but there was no unanimity regarding the involvement of the I.P.C.. The judges in this case decided that as Section 378 of I.P.C. did not make it theft, Section 39 did so but independently and that Section 39 itself provides for a punishment without connection with I.P.C. If the two were to be connected, the Code would not have been silent about it. In addition to this, the offence mentioned in Section 39 is the one connected to Section 50 which limits the people capable of filing it. The last important point put forward by the bench was that the appellant had been contending about the party filing the complaint since the beginning whereas the prosecution did not. So the appellant was acquitted.

¹<https://books.google.com/books?id=xic0AAAAIAAJ&pg=PA713&dq=%22all+presumptive+evidence+of+felony+should+be+admitted+cautiously%22&hl=en&sa=X&ei=cfwwUa-5F6OKiAL144GYDQ&ved=0CDwQ6AEwAg#>

v=onpage&q=%22all%20presumptive%20evidence%20of%20felony%20should%20be%20admitted%20cautiously%22&f=false

² <https://indiankanoon.org/doc/1173949/>

³ <https://indiankanoon.org/doc/356092/>



ANALYSIS:

1) Was the judgment appropriate?

The court's judgment held importance for the times to come when the availability and usage of electricity would drastically and exponentially increase. With the rule of literal interpretation put to use, theft was created via fiction but its punishment was not added. This is a legitimate area which needed correction and a rule regarding the same could have been formulated by the court in order to bring it to the attention of the Legislature. Not doing so did create a precedent for the future cases to use but without clearing the blur.

Moreover they reinforced the fact that a complaint by any person except those in Section 50 would not be taken into consideration. When an act is considered to be a crime it attaches with it the ability of being tried by any person who may not be connected. In this case the appellant's main contention was the same which lead to his acquittal. A person committing a crime that the judges identified was let go because of this.

Therefore it can be said that a loophole in law should be filled even when it means defying existing law so that it does not become a method for wrongdoers to escape criminal liability.

2) Was the reasoning sound?

The judges used various precedents in order order to unravel the complexities of this case and inspect various opinions. Cases like State v. Maganlal Chunilal Bogwat⁴, Tulsi Prasad v. The State⁵ and Public Prosecutor v. Abdul Wahab⁶ conveyed the message that the theft was not an offence against the act when an act similar to this case was committed. These cases were deemed correct as the one with the opposite result, namely Emperor v. Vishwanath⁷ was deemed to be wrongly decided as it made dishonest abstraction an offence punishable under I.P.C. As this case can be taken to be a great example of literal interpretation, every statement made outside the word of law was thought to be incorrect and every decision, erroneous. This reasoning can be claimed to be sound on the pretext of following the law as it was meant to be read. The results would have been different if another view was opted but it would not have made the latter inaccurate.

CONCLUSION:

The work of the Judiciary is to recognise a wrong and make it justiciable as per the guidelines of the Legislature. If one fails to do a task, it is the duty of the other to fill in the void so that no lacunae are left for the guilty to escape while the innocent pay for acts they did not do. From this case we can understand that no matter how law is read, the intention of equity should not be compromised for convicting the accused.

⁴ A.I.R. 1956 Bom. 354.

⁵ (1964) 1 Cr. L.J. 47 (3) (1964) L.W. Madras 271. (F.B.) (4) I.L.R. (1937) Al. 102.

⁶ (1964) L.W. 271 (F.B.)

⁷ I.L.R. [1937] All. 102

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