

CHAPTER 5

Cases under special and Local Acts.

PART A.--THE INDIAN ARMS ACT, 188

1. The definition of 'Arms' in the Indian Arms Act is not exhaustive and the question whether a particular weapon does or does not fall within the scope of the Act must be decided in view of all the circumstances of each case; neither the length, the breadth or the form of the blade of a weapon nor the handle afford any certain test. Whatever can be used as an instrument of attack or defence and is not an ordinary instrument for domestic purposes falls within the purview of the Act. Takwas intended primarily for domestic or agricultural use are not arms. (c.f. 191 Indian Cases 323, 16 P. R. 1900. 32 P. R 1918 and I. L. R. 2 Lahore 291).

Definition of Arms.

2. The question whether a case falls under section 19 or section 20 of the Indian Arms Act, 1878, is at times difficult to decide; but each case of concealment of arms must be decided on its own facts. For a conviction under section 20, there must be some special indication of an intention that the possession of arms was being concealed from a public servant or a railway servant. (c.f. 8 P. R. 1915 I.L.R. 7 Lahore 65)

Concealment of arms.

3. 'Kirpans' possessed or carried by Sikhs are exempt from the operation of the Arms Act but the exemption does not extend to manufacture of Kirpans by a Sikh (I.L.R. 3 Lahore 427). The word 'Kirpan' has not been defined in the Act or the rules framed thereunder. It has been held in I.L.R.5 Lahore 308 that it can only be understood and read as meaning a 'sword' and there is no warrant for holding that it must be of a particular type or that it must not exceed any particular dimensions.

Kirpans.

4. An Article which comes within the definition of 'Arms' in the Act would not cease to be so by the fact that it is used for religious purposes. In I.L.R. 1941

Lahore 789 a spear having the appearance of a spear and capable of being used as spear was held to fall within the definition and the facts that it as called by a different name or was electroplated and used for religious purposes were held not to be material.

5. The possessions of "arms" by a person after the expiry of his licence and before its renewal was held to be in contravention of Section 14 and therefore an offence punishable under Section 19 (f) of the Arms Act in I.L.R. 1943 Lahore 756. The period of grace allowed for the making of an application for the renewal of a licence does not mean that the quondam licence-holder is entitled as of right to have the licence renewed on payment of the fee mentioned.

6. For cases in which an arm is found to be in possession of control of two or more persons the observations of a Full Bench of the Lahore High Court in A. I. R. 1944 Lahore 339 would be found useful.