tribunal has considered all the relevant factors and has come to the conclusion that five months' bonus would meet the ends of justice. We do not see any reason to interfere with this award.

In the result both the appeals fail and are dismissed. There will be no order as to costs in both the appeals.

Appeals dismissed.

BHAGWATI SARAN AND ANOTHER

v.

THE STATE OF UTTAR PRADESH.

1961

January 20.

(B. P. SINHA, C.J., S. K. DAS, A. K. SARKAR, N. RAJAGOPALA AYYANGAR AND J. R. MUDHOLKAR, JJ.)

Iron and Steel Control—Notification fixing maximum prices—Whether ultra vires—If notification discriminates between "controlled stockholders" and "registered stockholders"—Report to Magistrate—Facts constituting the offence, meaning of—New Point—Iron and Steel (Control of Production and Distribution) Order, 1941, Cl. 11-B—Essential Supplies (Temporary Powers) Act, 1946 (XXIX of 1946), s. 11—Constitution of India, Art. 14.

A police officer made a report under s. 11 of the Essential Supplies (Temporary Powers) Act, 1946, regarding a contravention of cl. 11-B(III), Iron and Steel (Control of Production and Distribution) Order, 1941, read with s. 8 of the Essential Commodities Ordinance, 1955, to the Magistrate against the appellants who were registered stockholders that they had sold iron bars at prices higher than the controlled rate. After enquiry the Magistrate framed a charge against the appellant under s. 7, Essential Supplies (Temporary Powers) Act, 1946, read with cl. 11-B(III) of the Control Order. The appellants contended that the charge ought to be quashed on the grounds, (i) that the notification of the Controller fixing the maximum sale price of the several categories of iron and steel was *ultra vires* the rule-making power in cl. 11-B(i) of the Control Order, (ii) that the notification was discriminatory and violated Art. 14, and (iii) that the complaint could not be taken cognisance of by the Magistrate because the report of the police officer did not set out the facts constituting the offence as required by s. 11 of the Act. The first two grounds were raised for the first time before the Supreme Court.

Held, that the notification fixing the rates was *intra vires* cl. 11-B(i) of the Control Order. The notification did not omit any class mentioned in cl. 11-B(i) from its purview; it included

1961

Bhagwati Saran
v.
State of
Uttar Pradesh

"registered producers" and it was not shown that there were any "producers" other than "registered producers" enumerated in the notification. The notification governed "registered stockholders" also as they were included in the residuary category of persons other than "registered producers" and "controlled stockholders".

The notification was not discriminatory and did not offend Art. 14 of the Constitution. The notification no doubt permitted the grant of credit facilities and the right to charge for cutting and wastage in sales to "controlled stockholders" but not to "registered stockholders" in regard to sales by them. Differentiation was not *per se* discrimination. There was no material to show that there was any unfair or irrational discrimination which could attract Art. 14.

Held, further, that the police report on which the prosecution was launched satisfied the requirements of s. 11 of the Act. The purpose of s. 11 was to eliminate private persons from initiating prosecutions and to confine it to public servants. The requirement of the section that the report should be in writing and should set out the facts constituting the offence was to ensure that there was a record that the public servant was satisfied that a contravention of the law had taken place. If the contravention was sufficiently designated in the report the requirements of the section were satisfied. Section 11 did not require the mention in the report of details which would be necessary to be proved to bring home the guilt to the accused.

Dr. N. G. Chatterji v. *Emperor* (1946) 47 Cr. L.J. 876 and *Rachpal Singh* v. *Rex* (1947) 50 Cr. L.J. 469, not applicable.

Additional grounds, other than those urged before the High Court, would not be permitted to be raised before the Supreme Court as a matter of course, but only, in exceptional circumstances like cases of subsequent legislation or where questions of fundamental and general importance were raised.

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 16 of 1959.

Appeal from the judgment and order dated November 18, 1958, of the Allahabad High Court in Criminal Reference No. 452 of 1956.

R. V. S. Mani, for the appellants.

G. C. Mathur and *C. P. Lal*, for the respondent.

1961. January 20. The Judgment of the Court was delivered by

Ayyangar J.

AYYANGAR, J.—Having heard the learned Counsel for the appellants in full we did not consider it necessary to call on the respondent since, we were clearly

of the opinion that the contentions raised in the appeal possessed no merit.

The legality of a prosecution for contravention of the notification fixing the maximum prices at which certain categories of iron & steel could be sold is the subject-matter of this appeal. The appellants are two in number, related to each other as husband and wife. The second appellant—Sushila Devi—is "a Registered Stockholder" and is stated to be the proprietor of the firm "Balwanta Devi Sushila Devi" situated in Sultanpur in Uttar Pradesh and the first appellant—Bhagwati Saran, her husband, the manager of the said firm.

There has been some previous history before the present prosecution was initiated but it is sufficient for the purposes of this appeal to start with the report to the Judicial Magistrate, Amathi, by the officer incharge of the Police station, Sultanpur, dated August 20, 1955. It was headed "Offence—Section 11-B Iron & Steel Control Order, 1941" and set out the following facts:

> "Bhagwati Saran used to work as a Karinda in the firm of Balwanta Devi Sushila Devi and had all along been doing sales and purchases at the shop, and also issued receipts under his signatures. Shrimati Sushila Devi is the wife of accused Bhagwati Saran and she was the proprietor. Balwanta Devi has died. Hence she alone is the proprietor. In the course of investigation it was also revealed that Bhagwati Saran had from time to time sold some iron-bars on behalf of this firm after receiving price more than the control rate, which he had all along been getting printed, and had been getting some other receipts checked fictitiously under the Control Act from the office of the Supply Officer. An information relating to it was given to Shri P. N. Kapoor, the then D. M., Sultanpur by his munim Kalapnath and on it a case was registered at this police station and the investigation was made..... .....On the report of the P.P., the S.P. ordered another charge-sheet to be submitted under section 8 of Essential Commodities Ordinance of 1955. Hence this charge-sheet under section 11-B

1961

Bhagwati Saran
v.
State of
Uttar Pradesh

Ayyangar J.

(III) Iron and Steel Control of Production and Distribution Order, 1941, read with s. 8 of Essential Commodities Ordinance of 1955 is sent against both the accused. The accused persons after being arrested were released on bail. It is, therefore, prayed that the accused persons after being summoned may be punished."

The report further stated that 4 volumes of cash memos, and 5 volumes of register of Permits were deposited in the Malkhana and would be produced in evidence and followed it with a list of 13 prosecution witnesses. The Judicial Magistrate registered the case and issued summons to the accused on September 16, 1955, the case being directed to be called on September 30, 1955. The accused were thereafter examined before the Magistrate under s. 364 of the Criminal Procedure Code on March 23, 1956, and on the next day the Magistrate framed a charge against them which read as follows:

"That you between 10th January 1952 and 27th February 1952 in Sultanpur sold 11 Cwt. 12 lb. iron bars on 11th January 1952 and 3 Cwt. iron bars on 18-2-52 and 6 Cwt. iron bars on 26th February 1952 at the rate of Rs. 21-13-9 per Cwt. though the controlled rate as notified in Government of India Gazette dated 1st July 1952 for the commodity was Rs. 21-2-4 per Cwt. and thus you charged Rs. 1-15-0, Rs. 2-2-3 and Rs. 4-4-6 respectively excess and more than the controlled price and thereby committed an offence punishable under s. 7 E. S. Temp. P. Act 1946 read with s. 11-B(iii) of Iron and Steel Control of Production and Distribution Order of 1941 and I hereby direct that you be tried by the said Court on the said charge."

The two appellants thereupon moved the Court of the Sessions Judge, Sultanpur, to revise the order of the Magistrate dated March 24, 1956, framing charges against them under s. 7 of the Essential Supplies (Temporary Powers) Act, 1946—Act XXIV of 1946 (referred to hereafter as the Act).

The points urged at that stage were mainly two: (1) That the notification by the Controller under

cl. 11-B(1) fixing the maximum prices which were stated to have been contravened not having been filed before the Court, the Magistrate erred in framing a charge, and (2) that the report of the police was not in conformity with the provisions of s. 11 of the Act. The learned Sessions Judge upheld the second of the above contentions which was, that the report made by the police officer did not set out " the facts constituting the offence " as required by s. 11 of the Act. He rejected the other point put forward by the appellants but in view of his conclusion that there was a defect in the report which went to the root of the jurisdiction of the Magistrate to take cognizance of the case, he made a reference to the High Court with a recommendation that the charge framed against the appellants be quashed. This reference was heard by a Single Judge of the High Court, who disagreed with the learned Sessions Judge in his view that the report did not satisfy the requirements of s. 11 of the Act. Before the learned Judge, however, a further point was urged, that s. 11-B of the Iron & Steel Control of Production and Distribution Order, 1941 (which will be referred to hereafter as the Control Order) was itself ultra vires. This further objection was referred to a Division Bench for decision. The point urged before the learned Judges of the Division Bench was that the power to fix prices vested in the Steel Controller by cl. 11-B of the Control Order was unconstitutional, as violative of the right to carry on business guaranteed by Art. 19(1)(g) of the Constitution. The learned Judges answered this point against the appellants and the case thereafter came back before the learned Single Judge for final disposal of the reference by the Sessions Judge. The learned Counsel for the appellants once again made a submission to the learned Judge regarding the report of the police officer dated August 20, 1955, not satisfying the requirements of s. 11 of the Act and pressed before him the view which found favour with the learned Sessions Judge. In a more detailed judgment, the learned Judge again rejected this contention and dismissed the reference and directed the prosecution to continue. It is this

1961

Bhagwati Saran
v.
State of
Uttar Pradesh

Ayyangar J.

order of the High Court of Allahabad that is the subject-matter of appeal now before us, on a certificate granted by that Court.

It would be seen that the only two points in controversy before the High Court were: (1) whether the report of the police officer dated August 20, 1955, contained "the facts constituting the offence" with which the appellants were charged, as to satisfy the requirements of s. 11 of the Act, and (2) whether cl. 11-B of the Control Order, violated the fundamental right to carry on business guaranteed by Art. 19(1)(g). In the grounds of appeal to this Court and in the statement of case, however, the appellants have raised various other grounds and have also filed a petition for leave to urge these additional grounds. We desire to make it clear that grounds additional to those urged before the High Court would not be permitted to be raised before this Court as a matter of course and that petitions for such purpose would not be granted save in exceptional cases. It has to be noticed that in hearing and dealing with such additional grounds the Court is handicapped in not having the advantage of the opinions of the High Court on the points urged. It is the correctness of the decisions of High Courts that are sought to be challenged in appeals and it is but proper that the correctness of these judgments should, save in exceptional cases like for instance subsequent legislation or questions of fundamental and general importance etc., be assailed only on grounds urged before such Courts. Besides, when among the grounds thus urged as in this case is included a violation of Art. 14, the handicap is accentuated, since the material facts on which the classification might rest could not be properly investigated or evaluated on the basis of the affidavits filed in this Court without a careful sifting of the facts which a consideration by the High Court would afford. If in the appeal now before us, we have departed from this rule and permitted the appellants to urge the additional grounds it was because of the circumstance that the prosecution was pending and learned Counsel submitted that he would seek to sustain his contention

regarding the violation of fundamental rights on the materials already on record.

The ground regarding the constitutionality of cl. 11-B of the Control Order has been the subject of elaborate consideration by this Court in *Union of India* v. *Messrs. Bhuna Mal Gulzari Mal* (1) and is, therefore, no longer open to argument. Learned Counsel for the appellant therefore did not challenge the correctness of the judgment of the High Court upon this point.

Besides the ground based on a non-compliance with s. 11 of the Act which we shall consider later, learned Counsel urged before us two points with reference to the notification issued by the Steel Controller fixing the maximum prices at which the several categories of iron and steel could be sold by producers and stockholders. These were: (1) that the notification of the Controller dated July 1, 1952, for the contravention of which the appellants were being prosecuted, was ultra vires the rule-making power conferred upon him by cl. 11-B(1) of the Control Order, (2) if, however, the notification was held to be within his power, the same was unconstitutional in that it was discriminatory and violated Art. 14 of the Constitution. As we have indicated earlier, these grounds of challenge to the validity of the notification were not made in any of the Courts below including the High Court, but for the reasons indicated we permitted learned Counsel to argue them before us.

In order to appreciate the contention presented in the two forms, it is necessary to set out the terms of cl. 11-B(1) which conferred power upon the Controller to fix the maximum base-prices at which the several varieties of iron and steel could be sold. Clause 11-B(1) runs:

"11-B. Power to fix prices.—(1) The Controller may from time to time by notification in the Gazette of India fix the maximum prices at which any iron or steel may be sold (a) by a Producer, (b) by stockholder including a Controlled Stockholder and (c) by any other person or class of persons. Such price or prices may differ for iron and steel obtainable from

(1) [1960] 2 S.C.R. 627.

1961

Bhagwati Sar
v.
State of
Uttar Prades

Ayyangar J.

different sources and may include allowances for contribution to and payment from any equalization fund established by the Controller for equalising freight, the concession rates payable to each producer or class of producers under agreements entered into by the Controller with the producers from time to time, and any other disadvantages."

Clause (2) of the Control Order defines "producer" as "a person carrying on the business of manufacturing iron or steel", and "registered producer" as "a producer who is registered as such by the Controller". The same clause defines "stockholder" as "a person holding stocks of iron or steel for sale who is registered as a stockholder by Controller" and "Controlled stockholder" as "a stockholder appointed by the Controller to hold stocks of iron or steel under such terms and conditions as he may prescribe from time to time". The notification of the Controller dated July 1, 1952, impugned in these proceedings runs in these terms, quoting only the material words:

> "Under Ministry of Commerce and Industry Notification.....the prices of all items of steel under columns I, II and III in the schedule of Base Prices of the attached price circular No. 1 of 1951 have been increased by Rs. 50/- per ton with effect from 1st July, 1952, except item 19(b), i.e., Billets which has been increased by Rs. 45/- per ton..... The other General and Special Conditions of sale mentioned in the attached Price circular remain the same."

The price circular dated July 1, 1951, referred to here consisted of eight columns which ran thus:

(Price in rupees per ton)

Base Price Item No.	Materials	Maximum Base Prices at Calcutta, Bombay and Madras					
		Column I		Column II		Column III	
		For sales by Registered Producers.		For sales by controlled stockholders.		For sales by all persons other than Registered Producers and controlled stockholders.	
		Untested.	Tested.	Untested.	Tested.	Untested.	Tested.
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
	A—Bars, Structural and plates etc.						
1	Bars and Rods (Rounds and squares below 3" and flats up to and including 5" wide)	303	333	328	363	348	383
2 to 42	.....						

This was followed by General Conditions and Special Conditions which inter alia made provision for the purpose of rounding off inequalities in freight caused by places being situated at varying distances from the place of production etc. It was the operation of some of these conditions that was urged as giving rise to the discrimination complained of, but it will, however, be convenient to deal with them later, after disposing of the argument regarding the notification not being within the powers of the Controller under cl. 11-B (1).

The ground urged in support of the contention that the notification by the Controller was not in conformity

1961

Bhagwati Saran
v.
State of
Uttar Pradesh

Ayyangar J.

with cl. 11-B (1) was this: Whereas under cl. 11-B(1) the Controller was directed to fix the maximum prices which could be charged by three different classes, viz., (a) Producers, (b) Stockholders including Controlled stockholders, and (c) Other persons, the impugned notification departed from this scheme in two respects: (1) The clause contemplated that the notification should apply to all "producers" whereas "producers" other than "Registered producers" were wholly left out by the Controller with the result that no limitation was placed upon the price they could charge, (2) Whereas the clause directed the Controller to include both the types of stockholders—"Registered" as well as "Controlled"—within the same class and make the same limit of prices applicable to both, the notification had included only "Controlled stockholders" as the second category of dealers and "registered stockholders" had not been specified *eo nomine* by him. This meant either that "Registered stockholders" were wholly outside the class of dealers governed by the notification or that they were intended to be included in the residuary class in column III. On these premises learned Counsel urged that if "registered stockholders" like the second appellant were not within the notification, the prosecution must fail because the maximum prices chargeable by her had not been fixed. If on the other hand such dealers had been separated from "Controlled stockholders" and included in the residual category, such a classification was not countenanced by cl. 11-B(1) and was therefore ultra vires.

We consider that these submissions are wholly without any substance. Before the argument that "producers" other than "registered producers" had not been included in the notification can be accepted, it has to be established that there is any such producer. There is a list of "registered producers" appended to the notification and learned Counsel admitted that he could not say that there were any besides these, who were "producers" of iron and steel within the meaning of the Control Order. If therefore every "producer" was registered, there is no scope for the argument that

any persons had been left out and permitted to sell at prices of their choice.

The other part of learned Counsel's argument that "registered stockholders" were not governed by the notification because they were not included in column II thereof and that dealings by them were not subjected to the maxima of prices fixed by it, has only to be stated to be rejected. The heading of the last column shows that all categories of dealers other than "registered producers" and "controlled stockholders" were included in the residuary category. The related contention that the Controller acted outside his powers in differentiating between "controlled stockholders" and "registered stockholders" and in fixing different maxima of prices that could be charged by the two categories of dealers, does not deserve serious consideration either. If we understand the classification aright, it is like one between wholesale dealers and retailers and it is on this basis that the maximum price that could be charged by the "Registered Stockholders" who fall under column III is fixed at Rs. 20/- per ton above that permissible to "Controlled Stockholders" in respect of the category of steel which we have extracted earlier. The classification which gives persons in the category of the appellants this advantage is certainly not one regarding which a complaint could be made. Even when this advantage conferred on registered stockholders by the classification by the Controller was pointed out to learned Counsel for the appellant he persisted in his argument that "registered stockholders" should have been put in column II along with "controlled stockholders" and should have been permitted to sell only at the same maximum prices. This is sufficient to show that the argument regarding the classification was frivolous and could not have been urged with any seriousness. This apart, we consider that even on the terms of cl. 11-B(1), the Controller is not prevented from drawing a distinction within the three classes which are specified in it. The purpose and policy of the enactment is to ensure that an essential commodity like iron and steel is made available to

1961

Bhagwati Saran
v.
State of
Uttar Pradesh

Ayyangar J.

the consumer at reasonable prices and in the achievement of this objective classification of producers or of other stockholders based upon rational grounds would obviously be within the power of the Controller. Taking for instance the last class (c) "any other person or class of persons," it cannot be that this group could not be sub-classified, if there was any reason or necessity to do so. If head (c) is susceptible of this interpretation, as it obviously must, we see no reason why head (b) should not be similarly construed. We have therefore no hesitation in rejecting the contention of learned Counsel, that the notification of the Controller fixing maximum prices is beyond his power, as not warranted by the terms of cl. 11-B (1) of the Control Order.

The argument next advanced in challenge of the validity of the notification was, that some of the General Conditions appended to the notification were discriminatory of the class of "registered stockholders" as compared with the "controlled stockholders" invoking for this purpose Art. 14 of the Constitution. Learned Counsel did not challenge the legality of the creation of the equalisation fund by the allowances for what is termed as "place extra". Learned Counsel, however, urged two matters wherein facilities had been afforded or price increases permitted, to "controlled stockholders" which were denied to "registered stockholders" and that these had been done without any rational basis. These were: (1) The 3rd of the special conditions for sale by "controlled stockholders" read: "The question of credit facilities will be a matter for negotiation between the customers and the controlled stockholders." (2) Similarly, Condition 5 also relating to "controlled stockholders" read: "The base-prices are for sizes and length available in size. Customers requiring material cut to length or size not available in stock will be required to pay cutting and wastage charges agreed between the customers and the stockholders." Coming now to the special conditions for sale "by persons other than producers and controlled stockholders," i.e., the conditions which governed sales like those by the second appellant, special condition 1

read: "The base-rates given in column III above are ex-site and apply to sales by all persons other than Producers and Controlled Stockholders.....and are not subject to additional charges for cutting or for credit facilities." Neither of these points—cutting charges or credit facilities—could be held to be discriminatory without a full investigation of the facts and circumstances which led to the imposition of these special conditions. Differentiation could never per se be discrimination, nor is there any presumption that the adoption of different rules for groups differently situated is unequal treatment violative of Art. 14. On the other hand, the presumption is the other way and the party that alleges unjustifiable discrimination should establish it to the satisfaction of the Court. We consider that there is no material on the basis of which an argument could be sustained that the special conditions to which learned Counsel adverted contained any element of unfair or irrational discrimination to attract Art. 14.

There was a slight and subsidiary point raised in regard to the allowance of credit facilities and cutting charges. It was said that these charges were indeterminate and that the Controller having been directed by cl. 11-B(1) to fix definite maximum prices had departed therefrom by permitting increases of undefined amounts. This argument again has no substance. The base-price for the commodity having been fixed, there are incidentals which by their very nature were incapable of definite quantification, since they were dependent on each individual case. This contention also we therefore reject. In passing, we might observe that the matter before this Court in *Union of India* v. *Messrs. Bhana Mal Gulzari Mal* (1) related to a prosecution for a contravention of a notification of an earlier date, but in terms identical with the present, except as to the prices, wherein the dealers in the commodity were classified in the same manner as has been done in the notification now before us and with the same general and special conditions. The respondent then before this Court was "a registered

(1) [1960] 2 S.C.R. 627.

1961

Bhagwati Saran v. State of Uttar Pradesh

Ayyangar J.

stockholder" who was being prosecuted for effecting sales in excess of the maximum prices fixed. The fact that on that occasion no contention was urged challenging the validity of the notification as beyond the powers of the Controller, on the grounds now put forward clearly indicates, that the matters now urged never appeared then, as a possible source of grievance to a party situated similarly as the second appellant. We hold that the notification fixing the prices together with the conditions appended thereto are valid and enforceable.

The last point that remains to be dealt with, is the contention that the initiation of the prosecution against the appellants was invalid for non-compliance with the requirements of s. 11 of the Act. This Section runs:

> "11. Cognizance of offences.—No Court shall take cognizance of any offence punishable under this Act except on report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (XLV of 1860)."

Learned Counsel for the appellants urged that though two of the conditions specified by the statute, viz., (1) a report in writing, (2) by a public servant were satisfied, the third requisite, viz., that the report should set out the "facts constituting such offence" was lacking and that by reason of this defect the Magistrate could not lawfully take cognizance of the case against the appellants. In elaboration of this point learned Counsel pointed out that the report did not specify: (a) the date when the alleged sales took place, (b) the quantity sold, (c) the person in question who was the buyer and who paid the excess over the controlled price, (d) the class or category of iron and steel which was the subject of the sale by the appellants, (e) the precise maximum price which had been fixed for such variety, (f) the amount which the appellants were alleged to have received in excess. The learned Judge of the High Court rejected this contention and, in our opinion, correctly. In the report which we have already extracted the provision

of the law which the appellants were stated to have contravened was set out, and it was there stated that being "registered stockholders" they had sold the goods above the price notified and that they had further, in order to conceal their crime, fabricated evidence. It is to be noticed that the report is required to contain only "a statement of facts constituting the offence" and its function is not to serve as a charge-sheet against the accused. The function or purpose of the second of the above three requirements of s. 11 is to eliminate private individuals such as rival traders or the general public from initiating a prosecution and for this purpose before cognizance is taken the complaint is required to emanate from "a public servant". The two further requirements, viz., that the report should be in writing and regarding the contents of the report, are to ensure that there shall be a record that the public servant is satisfied that a contravention of the law has taken place. If the contravention in question is sufficiently designated in the report, and in the present case that cannot be disputed, since besides a reference to the notification stated to have been contravened, the report states that the accused had effected sales above the maximum prices specified in the notification, the requirements of the section are satisfied. The details which would be necessary to be proved to bring home the guilt to the accused and which comprised the several matters enumerated by learned Counsel which we have set out, will be details which would emerge at a later stage, when after notice to the accused a charge is framed against them, and of course at the stage of the trial. They would all be matters of evidence and s. 11 does not require the report to be or to contain either the charge-sheet or the evidence in support of the charge, its function being merely to afford a basis for enabling the magistrate to take cognizance of the case.

In support of his submission regarding the construction of s. 11 reliance was placed on two decisions: *Dr. N. G. Chatterji* v. *Emperor* (1) and *Rachpal Singh* v.

(1) (1946) 47 Cr. L.J. 876.

1961

Bhagwati Saran v. State of Uttar Pradesh

Ayyangar J.

Rex (1). Both these were cited before the learned Judge and we agree with the manner in which he has dealt with and distinguished them. No doubt, in both these cases it was held that the requirement of r. 130 (1) of the Defence of India Rules (whose language was similar to s. 11 of the Act) as to the Statement of "facts constituting the contravention" was not complied with, but the "reports" dealt with in them, bear no resemblance to the report in the case before us. In the first of these decisions, the recital in the report was that the accused was guilty of a "prejudicial act to the interest of the public" and "had prejudiced the success of financial measures with a view to the efficient prosecution of the war". These words were held to be absolutely vague, even the particular rule or provision of law which was said to have been contravened, not even being mentioned in the report. The other decision in 50 Criminal Law Journal does not bear any analogy to the present case either. The report there in question ran:

> "On the statement of the informant an offence under s. 81(2), Defence of India Rules, has been committed for which the charge-sheet is being submitted."

On this it was held that the facts alleged to constitute the contravention were not set out in the report and that the Magistrate had therefore no jurisdiction to take cognizance of the case. Obviously this case could not assist the learned Counsel to sustain a contention that the report in the present case was defective. We consider that the report on which the prosecution was launched satisfied the requirements of s. 11 of the Act.

In the result the appeal fails and is dismissed.

Appeal dismissed.

---

(1) (1947) 50 Cr. L.J. 469.