

1944
*Jan. 14.
*Jan. 29.

AU CHUNG LAM ALIAS OU LIM..... APPLICANT;

AND

HIS MAJESTY THE KING..... RESPONDENT.

ON PROPOSED APPEAL FROM THE SUPREME COURT OF
NOVA SCOTIA, EN BANC

*Criminal law—Appeal—No possible appeal to Supreme Court of Canada
under s. 1025, Cr. Code, by person found guilty on summary conviction.*

There is no possible appeal to the Supreme Court of Canada under s. 1025
of the *Criminal Code* by a person found guilty on summary conviction
under Part XV of the Code. S. 1025, under the special conditions

*Rinfret C.J. in Chambers.

therein mentioned, applies to an appeal by a person convicted of an indictable offence, and this really means a conviction on indictment as would appear from s. 1013. (S. 765, and *Attorney-General of Alberta v. Roskiwich*, [1932] S.C.R. 570, also cited.)

1944

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AU CHUNG
LAM
v.
THE KING.
—

APPLICATION under s. 1025 of the *Criminal Code* for leave to appeal from the judgment of the Supreme Court of Nova Scotia *en banc* affirming (on appeal by way of stated case under s. 761 of the *Criminal Code*) the conviction of the present applicant by a police magistrate on the trial on the information and complaint that he did "without lawful authority or without a permit signed by the Minister or some person authorized by him in that behalf, have in his possession a drug, to wit, opium, contrary to the Opium and Narcotic Drug Act, 1929, and amendments thereto".

Gordon Henderson for the applicant.

C. Stein for the respondent.

THE CHIEF JUSTICE.—In this case the appellant was found guilty on summary conviction under Part XV of the *Criminal Code*.

I have come to the conclusion that the case does not come within section 1025 of the *Criminal Code*. That section, under the spécial conditions therein mentioned, applies to an appeal by a person convicted of an indictable offence; and this really means a conviction on indictment as would appear from section 1013 of the Code.

There is no possible appeal under section 1025 by a person found guilty on summary conviction.

Moreover, the judgment *a quo* was rendered on a stated case and, under sec. 765 of the *Criminal Code*, such an order is final and conclusive upon all parties. (*Attorney-General for Alberta v. Roskiwich* (1)).

The motion, therefore, will be dismissed.

Application dismissed.

Solicitor for the applicant: *F. W. Bissett*.

Solicitor for the respondent: *The Attorney-General of Nova Scotia*.