

Bhagwana And Ors. vs State Of U.P. Through Ganga Ram on 11 September, 1951

Equivalent citations: AIR1953ALL367, AIR 1953 ALLAHABAD 367

ORDER

Bind Basni Prasad, J.

1. This is a petition in revision by four persons who were convicted by a Bench of Magistrates of Muzaffarnagar under Sections 323 and 427, Penal Code, and Section 24, Cattle Trespass Act. In appeal the learned Sessions Judge upheld the conviction under Section 323, Penal Code, and Section 24, Cattle Trespass Act, but set aside the conviction under Section 427, Penal Code.

2. The only point argued on behalf of the applicants is that the case was cognizable by a Pan-chayati Adalat and the Bench of the learned Magistrates had no jurisdiction to take cognizance " of the complaint. Sections 52 and 55, U. P. Pan-chayat Raj Act, 1947, have been relied upon. A perusal of Section 52 (1) (a) will show that while an offence under Section 426 is cognizable by a Panchayati Adalat that under Section 427 is not so cognizable. The difference between Sections 426 and 427, Penal Code, is that the latter section applies where the damage caused by the mischief amounts to RS. 50 or upwards. A conviction under Section 426 is made when the damage caused by mischief is less than us. 50. Now in the present case the complainant had alleged that the loss caused to his crop amounted to its. 100 or over. In fact a commission was issued to a lawyer who, after a visit of the locality, reported that the damage to the crop was to the extent of Rs. 100. Learned counsel for the applicants agrees that if an offence under Section 427 was committed then the case would not be cognizable by a Panchayati Adalat. He contends, however, that as the applicants were acquitted of the charge under Section 427, Penal Code, it should be taken that they did not commit any offence under that section. Hence the case was cognizable by a Panchayati Adalat. The jurisdiction of the Court does not depend upon the result of the case. It depends upon the allegations in the complaint. Of course such a complaint must be bona fide and the alle-gations in it must not be made with the deliberate intention of excluding the jurisdiction of the Panchayati Adalat. That is not the position in the present case. The complainant's allegations were bona fide. It so happened that in the opinion of the learned Sessions Judge the charge under Section 427, Penal Code, was not made out. The view taken by the learned Sessions Judge that, the case was not cognizable by the Panchayati Adalat is correct. That being so, Section 55, Panchayat Raj Act, did not come into operation.

3. The revision fails and it is hereby dismissed.