

Sankatha Prasad Pande vs State Of Uttar Pradesh on 3 November, 1955

Equivalent citations: (1957)ILLJ265ALL

JUDGMENT

D.N. Roy, J.

1. This an application in revision by Sankatha Prasad Pandey who has been prosecuted under Section 29 of the Police Act for the disobedience of an order passed on 1 January 1953, by the Superintendent of Police, Mirzapur. It has been contended on behalf of the applicant that he has not committed any breach of any "lawful order" passed by the Superintendent of Police, which may be tried or 'Punished under Section 29 of the Police Act.

2. The facts giving rise to the prosecution as stated by the Superintendent of Police in the inspector under Section 29 of the Act are these. The sub-inspector wanted a house for himself as he had been asked to vacate the Second Officer's quarters in police station Bindhyachal. There was a house in Bindhyachal occupied by one Smt. Sircar with a view to force her to vacate the house. The Superintendent of Police, held an inquiry, and he found that the conduct of the sub-inspector, was unbecoming of a police official. He therefore directed that an adverse entry be made in the character-roll of the sub-inspector, and he further ordered the sub-inspector to live in the C.I.'s inspection quarter in the police station for the next six months without his family. In the order of 1 January 1953, which is on the record, the Superintendent of Police further observed that since there was not enough evidence to take action against the sub-inspector under Section 7 of the Police Act, proceedings under that section were not being taken.

3. In the complaint of 21 January 1953, made by the Superintendent of Police under Section 29 of the Police Act it was alleged that the sub-inspector was guilty of disobedience of the order which was passed against him to the effect that he should live in the C.I.'s inspection quarter in the police station for six months without his family. It has been contended on behalf of the applicant that an order of that nature was not a "lawful order" within the meaning of those words under Section 29 of the Police Act. I have heard learned Counsel for the parties and I am of opinion that the submission made on this point on behalf of the applicant must be accepted. Section 7 of the Police Act, V of 1861, inter alia, says that subject to such rules as the State Government may from time to time make under this Act, the District Superintendent of Police may award a punishment of confinement to Quarters for for a term not exceeding fifteen days to any police officer of the subordinate, ranks who shall discharge his duty in a careless or negligent manner; or who by any act of his own shall render himself unfit for the discharge thereof. The Act itself provides that this provision is subject to such rules as the State Government may make under the Act. Paragraph 478 of the Police Regulations framed by Uttar Pradesh Government says that a police officer of the rank of a sub-inspector is

liable to departmental punishment in the form of dismissal or removal from the force as defined in Para. 481 or to reduction as defined in Para. 482, or withholding of increments including stoppage at an efficiency bar. The punishment of "confinement to quarters" is not a punishment which under Para. 478 of the Police Regulations can be inflicted on a sub-inspector. The punishment of confinement to quarters for a term not exceeding fifteen days is provided under Para. 478 of the Police Regulations for head constables and constables only. The punishment, the breach of which is said to be noticeable under Section 29 of the Police Act, suffers under two serious defects. Firstly, under the provision of the Police Regulations mentioned above the sub-inspector could not have been, ordered to confinement to quarters. Secondly, if such a confinement could have been ordered, it could not have extended to a term exceeding fifteen days. Consequently the order in question was not a "lawful order" passed by the Superintendent of Police which could be taken cognizance of under Section 29 of the Police Act or made punishable under that section. No action could therefore be taken by the Magistrate upon the complaint of the Superintendent of Police. In this view of the matter I would allow the application in revision, set aside the orders of the courts below and quash the proceedings against the applicant.