

Ram Bishal And Ors. vs State on 3 January, 1951

Equivalent citations: AIR1952ALL431, AIR 1952 ALLAHABAD 431

ORDER

Harish Chandra, J.

1. This was a case against the applicants under Sections 143, 447 and 506, Penal Code and was tried by a Magistrate of the first class. The contention is that the offences under Sections 447 and 506, Penal Code being offences cognizable by a Panchayati Adalat under Section 52, Panchayat Raj Act, 1947 (U.P. Act XXVI [26] of 1947) they could not have been tried by the Magistrate and that therefore the trial of the applicants under those sections was illegal. No doubt section 52 specifies certain offences as being cognizable by a Panchayati Adalat. Section 55, however, runs as follows:

"No Court shall take cognizance of any case or suit which is cognizable under the Act by a Panchayati Adalat unless an order has been passed by a Sub. Divisional Magistrate or Munsif under Section 85."

It will be noticed that the Section does not prohibit the taking of cognizance of any offence which may be cognizable by a Panchayati Adalat under Section 52 by a Panchayati Adalat. In the present case an offence under Section 143, Penal Code was also included and that was not cognizable by a Panchayati Adalat and it cannot therefore be said that the case was cognizable by a Panchayati Adalat. The mere fact that two of the offences involved in the case were cognizable by a Panchayati Adalat does not bring Section 55 into play. It is pointed out that there is no prohibition in the Code of Criminal Procedure against an accused person being tried separately on charges which could under certain provisions of the Code be tried together. This is no doubt true. But the law provides for the joint trial of accused persons for certain offences and a joint trial of the applicants under the different sections above was perfectly in accordance with law. In the circumstances it cannot be said that the case was cognizable by a Panchayati Adalat. In my view the trial of the case by a Magistrate of the first class was not illegal.

2. The application is accordingly rejected.