

## Nasrullah vs State on 21 May, 1954

ORDER

Mukerji, J.

1. Mr. Sadiq Ali raised an interesting question in this revision the question that he raised was that the Government has been given a right of appeal against an acquittal Under Section 417 of the Code of Criminal Procedure, while a private complainant, in whose case there is an acquittal, has no such right. It was, therefore, contended by Mr. Sadiq Ali that this differentiation in the treatment between the State and the private individual offended against Article 14 of the Constitution.

I have no doubt in my mind that the fact that a private individual has not been given a right of appeal and a State has been given a right of appeal from an acquittal does not offend against the guarantee contained in Article 14 of the Constitution.

Be that as it may, I am of the opinion that the question that Mr. Sadiq Ali has raised cannot be appropriately raised in these proceedings. The right of appeal is a creature of statute and the statute has not conferred a right of appeal on the applicant. He cannot, therefore, come forward and say in a revision against an acquittal that he should have had a right of appeal, since the State has been given a right of appeal. If this question can be raised, it can only be raised, in my view, in a Government appeal and by an accused, namely, that an appeal should not be permitted, since permitting an appeal to the State alone was opposed to Article 14 of the Constitution. In my opinion, there is no substance in this plea, for it is well established that where the Legislature confers some special benefit or treats the State differently from the treatment it offers to other individuals, there is a classification and the classification is not unreasonable. On that ground also I see no substance in this plea.

2. On the merits I see no reason to interfere against this acquittal in my revisional jurisdiction, I, therefore, reject this application.

3. Mr. Sadiq Ali wishes me to certify this as a fit case for appeal to the Supreme Court. I do not, however, think this a fit case for such a certificate. I accordingly reject the prayer.