

Raghunandan Singh And Ors. vs State on 22 November, 1951

Equivalent citations: AIR1952ALL668, AIR 1952 ALLAHABAD 668

Author: Raghubar Dayal

Bench: Raghubar Dayal

ORDER

Raghubar Dayal, J.

1. In this case the Panchayati Adalat convicted the applicants and two other persons for offences under Section 24, Cattle Trespass Act and Section 323, Penal Code, and fined each of them Rs. 20 for both the offences. A revision was filed before the Sub-Divisional Magistrate, Banda. He acquitted two of the convicted persons and reduced the fine of the other three, who are the applicants.

2. In this application under Article 227 of the Constitution, it has been urged that the Sub-Divisional Magistrate had no jurisdiction to Substitute a fresh order under Section 85, Panchayat Raj Act, as that section authorises the Sub-Divisional Magistrate to cancel the jurisdiction of a Panchayati Adalat with regard to any case or to quash the order passed by the Panchayati Adalat at any stage. It is clear, therefore, that once the Sub-Divisional Magistrate comes to the conclusion that there has been a miscarriage of justice, he has to quash the order passed by the Panchayati Adalat. He is not given power under Section 85, Panchayat Raj Act, to modify the order passed by a Panchayati Adalat in any manner. In other words, either the order passed by a Panchayati Adalat is to be confirmed intact or the order is to be quashed, with the result that the complainant would be free to institute a complaint in the Court of a Magistrate having jurisdiction to try the case. It follows, therefore, that the order complained of which has been passed was beyond the jurisdiction of the Sub-Divisional Magistrate under Section 85, Panchayat Raj Act.

3. The Sub-Divisional Magistrate seems to have acted beyond his jurisdiction under Section 85, Panchayat Raj Act in another manner as well. The finding of the Sub-Divisional Magistrate that the case is not proved against two of the five persons convicted by the Panchayati Adalat means that there had been a miscarriage of justice in this case. He should have, therefore, quashed the order of the Panchayati Adalat with respect to all the applicants before him and not with respect to only those two persons who had been wrongly convicted, as Sub-section (1) of Section 85, U. P. Panchayat Raj Act provides for the quashing of the order passed by the Panchayati Adalat and should, therefore, mean the entire order passed by that Adalat and not a portion of that order. This view finds support from the provisions of Sub-section (2), which provides that when an order has been passed under Sub-section (1) in respect of any case, a trial on complaint or otherwise in respect of the same offence may be started in the Court of a Magistrate having jurisdiction to try the case.

This means that those two persons against whom the Sub-Divisional Magistrate has quashed the proceedings can be proceeded against for the same offence in the Court of a competent Magistrate. It would be very embarrassing indeed that that Magistrate should be in a position to hold that the prosecution version was not established at all or was not true while the conviction of three persons should remain good on account of their conviction by the Panchayati Adalat and its confirmation by the Sub-Divisional Magistrate. It, therefore, appears to me that these provisions of Section 85 of the Act provide for the quashing of the entire order and not so much of the order as be against any particular individual, In this view of the matter, the Sub-Divisional Magistrate should be ordered to pass the proper order in this case, taking into consideration that he or another Sub-Divisional Magistrate had already found that miscarriage of justice had taken place with respect to two accused.

4. It has been contended for the State that though the Sub-Divisional Magistrate's power a under Section 85 are so limited, but his powers as a Court of revision under Section 89 of the Act are not so limited. I do not agree. I am of opinion that Section 89 just mentions the forum to which revisions could be presented against the various orders of the Panchayati Adalat and Section 85 provides what powers the Sub-Divisional Magistrate and other presiding officers can exercise with respect to the Orders passed by the Panchayati Adalat or with respect to its jurisdiction over certain matters. Sub-section (5) of Section 85 is :

"except as aforesaid a decree or order passed by a Panchayati Adalat in any suit, case or proceeding under this Act shall be final and shall not be open to appeal or revision in any Court."

This, to my mind, makes it clear that the order passed by the Panchayati Adalat is not to be interfered with in any other manner except as is provided in Section 85, and that Section 89 has nothing to do with the powers of the Sub-Divisional Magistrate while dealing with revisions, but has simply to do with the forum for the various revisions.

5. I, therefore, allow this application, set aside the order of the Sub-Divisional Magistrate and order that proper orders be passed in the light of the above remarks, keeping in view that he or his predecessor has already held that miscarriage of justice had taken place in the case of two persons.