

Chhatkun And Ors. vs The State on 15 December, 1953

Equivalent citations: AIR1954ALL721

ORDER

Mukerji, J.

1. This is a revision by four persons who have been convicted under Section 323, I. P. C. by a Special Magistrate of Faizabad and have been sentenced to pay a fine of Rs. 100/- each, or in default to undergo rigorous imprisonment for three months each. Out of the fines, if realized, a sum. of Rs. 150/- was ordered to be paid to the complainant as compensation under the provisions of Section 545, Criminal P. C. for the loss which he had suffered.

2. The complaint was originally filed in the court of the Sub-Divisional Magistrate, who transferred the case to the file of a Special Magistrate for disposal. The Special Magistrate apparently discovered that the case was triable by the Panchayati Adalat and he, therefore, sent the case to the District Panchayat Officer so that he may allocate the case to the file of the proper Panchayati Adalat for disposal. After the case had gone on to the file of the Panchayati Adalat, the complainant moved the Sub-Divisional Magistrate for the cancellation of the jurisdiction of the Panchayati Adalat under the provisions of Section 85 of Panchayat Raj Act (26 of 1947). The Sub-Divisional Magistrate after hearing the parties cancelled the jurisdiction of the Panchayati Adalat.

3. Mr. Surajnath Singh, appearing for the applicants has contended in the first instance that the order of the Sub-Divisional Magistrate cancelling the jurisdiction of the Panchayati Adalat was bad in law, inasmuch, as, the Sub-Divisional Magistrate gave no reasons for cancelling the jurisdiction of the Panchayati Adalat. The validity of the order of the Sub-Divisional Magistrate is not the subject-matter of this revision as such an order cannot be made the subject-matter of a revision under the provisions of the Code of Criminal Procedure. Consequently, it is not competent for me to investigate into the question whether or not the order made by the Sub-Divisional Magistrate, cancelling the jurisdiction of the Panchayati Adalat, was a good or a bad order. I must accept that order as an order properly made whereby the jurisdiction of the Panchayati Adalat was cancelled. The jurisdiction of the Panchayati Adalat having been cancelled by the Sub-Divisional Magistrate, he thought it proper to send the case to the file of the same Special Magistrate to whom the case had once been sent. The Special Magistrate thereafter tried the case and convicted the applicants in the manner already indicated.

4. An appeal was filed against the aforementioned order of the Special Magistrate to the Sessions Judge and one of the points that was argued before the appellate Judge was that the Special Magistrate who tried the case had no jurisdiction to try it. The same point has again been reiterated by the applicants before me in this revision. The contention advanced by Mr. Singh is that once the jurisdiction of the Panchayati Adalat was cancelled, the Sub-Divisional Magistrate could not

thereafter make any further order in regard to that matter unless there was another complaint in regard to it. I am unable to accept this contention in view of the provisions of Section 85(2) of the Panchayat Raj Act. The provisions of that subsection are as follows:

"When an order has been passed by the Sub-Divisional Magistrate under Sub-section (1) in respect of any case, 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."

5. In this case an order was made by the Sub-Divisional Magistrate under Section 85, Sub-section (1) (a), quashing the jurisdiction of the Panchayati Adalat. After the jurisdiction of the Panchayati Adalat was quashed that Adalat or that court ceased to have jurisdiction over the case, but that did not mean that there was an end of the case, for Sub-section (2) of Section 85 of the Panchayati Raj Act does not speak of the case coming to an end in any shape or form. The words "in respect of any case, trial, on complaint or otherwise in respect of the same offence" do not mean that there has necessarily to be a fresh, complaint before a Magistrate having jurisdiction to try that complaint can so try it. The words "may be started in the Court of a Magistrate having jurisdiction to try the case do not necessarily mean the restarting of the case on a fresh complaint.

In my view the trial of the case on the original complaint could proceed in the court of a Magistrate competent to try it without the necessity of a fresh complaint being filed. If the intention of the Legislature was that after the jurisdiction of a Panchayati Adalat had been cancelled, there was to be an end of that case and another case on the same facts could only start if there was a fresh complaint made in respect of it then the Legislature would have used different words to convey this sense. Sub-section (2) of Section 85 of the Panchayat Raj Act unfortunately has not been very happily worded and it is this unhappy phraseology of the sub-section that, to my mind, is the reason for the misconception that led to the argument which was advanced on behalf of the applicant in this case.

I feel fortified in the view that I have taken for the additional reason that the law does not contemplate the termination of a prosecution, either initiated on a complaint or otherwise by the jurisdiction of the court, which had seized of the case, being cancelled. A complaint under the law can only terminate by a dismissal of the complaint, a discharge of the accused, or by a conviction or an acquittal of the accused; the law knows of no other way of terminating a complaint except possibly by the quashing of the proceedings by an order of a superior court. In this view of the matter, it is not possible, in my opinion, to say that the order of the Magistrate transferring the case to the file of the Special Magistrate was an order without jurisdiction.

The Sub-Divisional Magistrate, when he cancelled the jurisdiction of the Panchayati Adalat, got jurisdiction to try the complaint himself because under the law he was competent to try the case-the Magistrate also had as a Sub-Divisional Magistrate, jurisdiction under the law, to transfer the case to the file of some other Magistrate competent to try the same. The Sub-Divisional Magistrate had acted in accordance with the aforementioned jurisdiction and no exception can be taken to it.

6. In view of what I have stated above, I see no force in this application and I accordingly dismiss it.