

Ram Naresh Singh And Ors. vs State Of Uttar Pradesh Through ... on 12 December, 1952

Equivalent citations: AIR1953ALL364, AIR 1953 ALLAHABAD 364

JUDGMENT

Agarwala, J.

1. This application was originally filed as a revision but on an oral request of the learned counsel for the applicants I converted it into an application under Article 227 of the Constitution. I gave an opportunity to the opposite party to file a counter-affidavit in support of his allegations, but it has not been filed.

2. The facts of the case are not disputed. The applicants were prosecuted under Sections 323 and 504, Penal Code. The Panchayati Adalat administered oath to them and they were cross-examined also, probably by the complainant. After considering all the facts and circumstances of the case the Panchayati Adalat came to the conclusion that the applicants had committed no offence and acquitted them. The complainant applied in revision to the Sub-Divisional Magistrate. The Sub-Divisional Magistrate set aside the order of the Panchayati Adalat on the ground that the accused had been put under oath and cross-examined. It was held in *Pati v. Dubari*, 1952 ALL. L. J. 565 that if an accused is put under oath and cross-examined the procedure is illegal and the trial is vitiated. But that was a case in which the accused was convicted and had applied to this Court to have his conviction set aside on the ground that the procedure which resulted in his conviction was vitiated. Where, however, the accused is acquitted and, therefore, he does not object to the procedure adopted by the Panchayati Adalat, it is not open to the complainant to have the order of acquittal set aside on the ground that the accused was given oath and was cross-examined.

After all, the object of the rule that an accused should not be put under oath and should not be cross-examined is to protect the interests of the accused, not those of the complainant. The complainant himself cross-examined the accused and he cannot be heard to say that on account of his own act the trial was vitiated. In the circumstances, the ruling relied upon by the learned counsel for the opposite party has no application to the facts of the present case.

3. I, therefore, set aside the order of the Sub-Divisional Magistrate and restore that of the Panchayati Adalat.