

Sadal And Ors. vs The State on 19 August, 1952

Equivalent citations: AIR1953ALL95

ORDER

Misra, J.

1. This criminal revision arises out of a, summary trial at which the applicants Sadal, Manna and Chiddan were convicted of an offence under Section 174/2, District Boards Act, for contravention of bye-law No. 1 of the District Board, Rae Bareli, published at pp. 352-63, part 3, U.P. Gazette dated 19th August 1950, The trial was a summary one and the conviction was based upon admission of the accused to the effect "that they slaughtered five bullocks at the Kanchana slaughter house within the limits of the District Board, Rae Bareli. The learned Magistrate found the accused guilty but released them under Section 3, First Offenders Act. Dissatisfied with the aforesaid order, Sadal, Manna and Chiddan went up to the Court of Session but their application was rejected and they have now approached this Court under Section 439, Criminal P.C. A number of technical arguments have been urged on their behalf. They are: (a) That the bye-law is ultra vires the District Boards Act, (b) that it is in violation of Article 19 of the Constitution, (c) that the learned Magistrate was not competent to take cognizance of the case, and (d) that in any event trial should not have been a summary one.

2. I am not impressed by any of those arguments. The bye-laws were framed under Section 174, District Boards Act which authorises a Board by special resolution to make bye-laws applicable to the whole or any part of the rural area of the district for the purpose of promoting or maintaining the health, safety or convenience of the inhabitants of such area and for the furtherance of the administration of the district under the Act. In particular and without prejudice to the generality of these powers, a Board is authorized to make bye-laws for the purpose of regulating slaughter houses and offensive, dangerous, and obnoxious trades, callings, or practices and prescribing fees to defray the expenditure incurred by a Board in that connection. The power to regulate offensive and obnoxious trades and practices must be deemed to include the power to prohibit such trades or practices being carried out in particular places or in particular areas and since the bye-law only attempts to do this and no more, it is not prima facie ultra vires the powers conferred on the Board by Section 174. Article 19(1)(g) of the Constitution likewise has no application to the matter inasmuch as the bye-law does not prohibit the carrying on of any profession or trade in contravention of the constitutional injunctions. It is noticeable that by Clause 6 of the aforesaid article, the constitution expressly saves the operation of any existing law in so far as it imposes in the interest of the general public reasonable restrictions on the exercise of the right to practise any profession or carry on any occupation, trade or business.

3. As regards the competency of the learned Magistrate to try the accused or the expediency of holding a summary trial, it cannot be doubted that the learned Magistrate was competent to take cognizance of the case on challan by the Station Officer of thana Nazirabad in view of bye-law 4

published in the U.P. Gazette referred to above which authorises every police officer on duty not below the rank of Sub-Inspector to send up complaints regarding the contravention of bye-law 1. The case arose within the jurisdiction of afore named police station. The Station Officer must be deemed to be on duty and, therefore, empowered to send up the complaint against the accused. The case was a petty one. It did not merit anything better than a summary trial and in my judgment there is no substance in the contention that the accused should have been tried in a regular manner.

4. There is no miscarriage of justice. I dismiss the revision application.