

Girdhar Lal And Anr. vs State on 12 September, 1951

Equivalent citations: AIR1952ALL787, AIR 1952 ALLAHABAD 787

ORDER

Bind Bansi Prasad, J.

1. There was a complaint under Sections 352 and 506, Penal Code before a Panchayati Adalat in the district of Aligarh. The complainant was one Wali Mohammad and the accused were three persons, namely, Ramsi, Girdhar Lal and Karim Bux. On 17-3-1950 the Panchayati Adalat gave a judgment by which it sentenced Ramsi to a fine of Rs. 75 and acquitted Girdhar Lal and Karim Bux. Against that judgment there were two applications in revision under Section 85, U. P Panchayat Raj Act, 1947, before the Sub-Divisional Magistrate--one by Ramsi against the orders of his conviction and the other by Wali Mohammad against an order of acquittal of the other two accused. Learned Sub-Divisional Magistrate heard the two revisions on 12-5-1950 and on that very date he passed the following order :

"Both the parties are aggrieved. The jurisdiction of the Panchayat is cancelled and proceedings are quashed. The case will be heard afresh by the S.R. Magistrate when the case is started."

2. Against this order Girdhar Lal and Karim Bux went up in revision to the District Magistrate. On 31-8-1950, the learned District Magistrate while passing an order remarked that the order of the Sub-Divisional Magistrate was 'extremely unsatisfactory.' He warned the Sub-Divisional Magistrate that he should devote more care and attention to such cases but he did not interfere with the order of the Sub-Divisional Magistrate.

3. Girdhar Lal and Earim Bux have now come up in revision before this Court. It appears that the learned Sub-Divisional Magistrate set aside the order of acquittal passed in favour of Girdhar Lal and Karim Bux without giving any notice to them. It is one of the fundamental principles of natural justice that no order be passed by a judicial tribunal against any party without giving it an opportunity of showing cause. Learned Sub-Divisional Magistrate has acted in complete violation of this fundamental principle. The order of acquittal of the applicants has been set aside without giving them an opportunity of showing cause. The order of learned Sub-Divisional Magistrate is untenable.

4. Section 83, U. P Panchayati Raj Act clearly provides that the Code of Criminal Procedure shall not apply to any case in a Panchayati Adalat except as provided in the Act or may be prescribed. No rule providing for the application of Section 435, Criminal P. C. to cases under the Panchayat Raj Act has been placed before me. Learned District Magistrate was, therefore, not competent to entertain the petition of Girdhar Lal and Karim Bux. So far as this Court is concerned, its revisional powers have also been taken away under Sub-section (5) of Section 85, Panchayat Raj Act. It has however the

power of Superintendence under Article 227(1) of the Constitution. The Article provides :

"Every High Court shall have superintendence over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction."

5. The case has been very unsatisfactorily dealt with by the learned Sub-Divisional Magistrate in complete disregard of the first principles of judicial procedure and it is desirable that he should rehear the two revisions--one filed by Wali Mohammad and the other filed by Ramsi after due notice to the parties.

6. The revision is allowed. The orders of the District Magistrate dated 31-8-1950 and that of the Sub-Divisional Magistrate dated 12-5-1950 are set aside. The learned Sub-Divisional Magistrate shall readmit the two revisions on his file, rehear them after due notice to the parties concerned and will pass orders according to law.