

Ranjit Singh vs State Through Bachhi Singh on 24 August, 1955

Equivalent citations: AIR1956ALL134, 1956CRILJ185, AIR 1956 ALLAHABAD 134

ORDER

Oak, J.

1. This revision application arises out of a prosecution for defamation. Ranjit Singh applicant is Sarpanch of the Panchayati Adalat of Bhamanswal. There were two cross-cases pending between Har Singh and Gopal Singh before the Panchayati Adalat. Ranjit Singh Sarpanch was not himself a member of the Bench, which was trying the cases of Har Singh and Gopal Singh. Har Singh applied to the sub-Divisional Magistrate under Section 85, Panchayat Raj Act, for quashing the jurisdiction of the Panchayat with respect to the two cross-cases.

The Sub-Divisional Magistrate called for a report from the Sarpanch of the Panchayati Adalat in connection with the application under Section 85 of the Act. Ranjit Singh Sarpanch submitted a report on 30-11-1949. That report contained a number of imputations against two persons, Bachchi Singh and Gusain Singh. Bachchi Singh and Gosain Singh, therefore, filed a complaint against Ranjit Singh Sarpanch for defamation with respect to the matter contained in his report of 30-11-1949. Ranjit Singh accused admitted having submitted the report.

He pleaded that he submitted his report in good faith. The plea of good faith was overruled by the learned Magistrate, & it was found that the statements in question were defamatory. The accused was, therefore, convicted under S, 500, I. P. C. and was fined Rs. 500/-. An appeal filed by Ranjit Singh was dismissed by the learned Sessions Judge of Kumaun. Hence, the revision application to this Court.

2. The main point urged by Mr. Hira Lal Kapoor for the applicant is that, the prosecution of the accused was barred under Section 197, Cr. P. C. Section 197 (1), Cr. P. C. states:

"When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate or any public servant who is not removable from his office save by or with the sanction of State Government or the Central Government, is accused of "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his duty, no Court shall take cognizance of such offence except with the previous sanction."

3. In the present case, no sanction was obtained for Ranjit Singh's prosecution for defamation. The question is whether the accused could be prosecuted for defamation without a sanction.

4. Section 197, Cr. P. C. gives protection to three class of persons. The first class of persons relates to Judges as defined by the Indian Penal Code. The second class relates to Magistrates. The third class relates to public servants, who are not removable from their office except by the Central Government or the State Government. It was not urged that the accused in the present case was a Magistrate. It was, however, argued that the accused was a Judge as defined by the Indian Penal Code, and that he was of the class of public servants contemplated by Section 197, Cr. P. C.

5. Firstly, we may consider whether the accused was a 'Judge' as defined by the Indian Penal Code. The term 'Judge' has been defined under Section 19, I. P. C. thus:

"The word 'Judge' denotes not only every person who is officially designated as a Judge but also every person who is empowered by law to give in any legal proceeding, civil criminal, a definite judgment..... or who is one of a body of persons which body of persons is empowered by law to give such a judgment."

6. The accused was a Sarpanch of a Panchayati Adalat. The question for consideration is whether as Sarpanch, he was a Judge within the meaning of Section 19, I P. C.

7. Section 19 consists of three paragraphs. The first paragraph relates to persons who are officially designated as Judges. Sarpanches are not officially designated as Judges. So, the applicant's case does not fall under Paragraph 1 of Section 19, I. P. C. The second paragraph of Section 19 governs persons who are empowered to deliver judgments. The third paragraph deals with one, who is a member of a body of persons competent to give a judgment. We have to see whether the applicant's case can be brought under paragraph 2 or paragraph 3 of Section 19, I P. C.

8. In -- 'Asharfi Lal v. State,' AIR 1952 All 306 (A), Asharfi Lal was an accused before a Panchayati Adalat. The Panchayati Adalat pronounced judgment convicting Asharfi Lal. Soon after the delivery of judgment he stood up in front of the door, lathi in hand, ready to assault the Panches. A complaint for contempt of Court against Asharfi Lal was filed. The question was raised whether the Panches constituting the Bench were public servants. In that connection the Court had to discuss the meaning of the term "Judge".

It was held that every member of the Panchayati Adalat was a 'Judge' and was, therefore, a public servant. It was further held that, the Panches should still be deemed to be sitting in a stage of a judicial proceeding although judgment had been pronounced. In the present case, it has already been mentioned that, Ranjit Singh Sarpanch was not a member of the Bench, which was dealing with the criminal cases of Har Singh and Gopal Singh.

9. In Ramchandra v. Emperor, AIR 192S Pat 214 (B), an affidavit sworn before a Sub-Divisional Magistrate was filed before the High Court. It was held that the Sub-Divisional Magistrate was not a 'Judge' as defined in Section 19, I. P. C. Reference was made to illustration (d) to Section 19, I. P. C.

According to illustration (d), a Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another court, is not a Judge. This Illustration shows that a Magistrate may be a 'Judge' for purposes of some cases, but not a 'Judge' for purposes of another class of cases. A Magistrate is not a 'Judge' for all purposes and for all time.

10. It may be that, whenever Ranjit Singh Sarpanch sat for deciding cases, he acted as a Judge as defined by Section 19, I. P. C. But that will not mean that, Ranjit Singh was a Judge throughout his tenure of Sarpanch. He was not a member of the Bench, which was dealing with the cases of Har Singh and Gopal Singh. The Sarpanch was not competent to give any judgment in those cases. His case is not, therefore, covered by Paragraph 2 of Section 19, I. P. C. For the same reason, his case will not be governed by Paragraph 3 of Section 19, I. P. C. I, therefore, agree with the learned Sessions Judge that, Ranjit Singh was not a 'Judge' for purposes of the present case.

11. Next we have to consider whether the accused was one of the public servants protected by Section 197, Cr. P. C. Section 197, Cr. P. C. governs those public servants who are not removable from their office except with the sanction of the Central Government or the State Government-According to Rule 61 of the Panchayat Raj Rules, a Sarpanch may be removed from his office by the prescribed authority or the State Government.

It appears that in Uttar Pradesh, the Director of Panchayats is the prescribed authority for purposes of Rule 61 of U. P. Panchayat Raj Rules. Rule 61 thus makes it clear that, the State Government is not the only authority competent to remove a Sarpanch. There is another such authority, namely, the Director of Panchayats.

12. Mr. Kapoor urged that the Director of Panchayats is merely an authority delegated by the State Government. So, a removal by such authority should be deemed to be a removal by The State Government. In -- 'Afzalur Rahman v. Emperor', AIR 1943 FC 18 (C) the appeals related to two police officers and an Excise Sub-Inspector. The police officers could be dismissed by the Deputy Inspector-General of Police; and the Excise Sub-Inspector could be removed by the Excise Commissioner.

It was urged on behalf of the appellants that, such dismissal must be deemed as an act of the Provincial Government itself. This contention was not accepted. Their Lordships of the Federal Court explained that, such rules governed that class of officers, who can be dismissed only with the sanction of the Local Government, and it is to this class of officers that the Legislature must have intended to limit the protection given by Section 197, Cr. P. C. A Sarpanch in Uttar Pradesh can be removed by the Director of Panchayats without any reference to the State Government.

It cannot, therefore, be said that, a Sarpanch is an officer, who can only be removed by the Central Government or State Government. A Sarpanch can be removed from his office by a subordinate authority. So, a Sarpanch does not belong to the small class of public servants protected by Section 197, Cr. P. C.

13. We thus find that the case of the applicant does not fall under any of the categories of persons enumerated in Section 197, Cr. P. C. In view of this position, it is not necessary to consider the further question, whether the accused was acting in the discharge of his official duty. Since the accused does not belong to the class of protected persons, his case does not fall under Section 197, Cr. P. C. So, the present prosecution for defamation was not barred by Section 197, Cr. P. C.

14. It was urged on behalf of the applicant that, the accused acted in good faith, and his report does not amount to defamation. The plea of good faith was considered by the two lower Courts, and was negative. Whether the accused acted honestly and in good faith, is essentially a question of fact. On this question of fact, the two lower courts have found against the accused. This finding of fact may be accepted in revision.

15. So, the applicant's conviction for defamation must stand. Lastly, it was urged that the sentence passed upon the accused may be reduced. The accused utilized his position as a Sarpanch to publish defamatory matter. In view of these circumstances, it was necessary to pass exemplary sentence. The revision application is dismissed.

16. Mr. Kapoor applies for leave to appeal to Supreme Court. I do not think that, this is a fit case for appeal to the Supreme Court.

A certificate is, therefore, refused.