

Rama Shanker Lal vs State Of Uttar Pradesh on 12 December, 1952

Equivalent citations: AIR1953ALL347, AIR 1953 ALLAHABAD 347

ORDER

Agarwala, J.

1. This is an application under Article 227 of the Constitution. The applicant was convicted under Sections 323 and 447, I. P. C., by a Panchayati Adalat and fined Rs. 50 and 25 respectively for the two offences. The order of the Panchayati Adalat was confirmed on revision by the Sub-Divisional Magistrate.

2. Two points have been taken before me. The first point urged is that the complainant died during the pendency of the revision before the learned Sub-Divisional Magistrate but after the decision by the Panchayati Adalat, and that therefore the case abated and the order of the Panchayati Adalat became null and void.

3. Ordinarily, a criminal complaint does not abate on the death of a complainant, because it is the State which is, in fact, the prosecutor; the complainant being merely a person helping the State in punishing the guilty. Reliance has been placed on Rule 101 of the Panchayat Raj Rules which runs as follows :

"If, during the pendency of a criminal case, other than a police-case, either the complainant or the accused dies, the case shall abate, but if during the pendency of a civil suit or revenue proceeding any party dies the legal representative of the said party shall be made a party to the suit or proceeding, as the case may be, subject to the provisions of Section 67 of the Act."

4. The phrase "criminal case" has been used in contradistinction with the phrase "police case," and the parties are named as 'complainant' and 'accused.' These names, 'complainant' and 'accused' are appropriate to a proceeding in the trial Court and not to a proceeding in the appellate or revisional Court. Further the word 'case' itself has been defined in Section 2 (c) as meaning "A criminal proceeding in respect of an offence triable by a Panchayati Adalat." For these reasons, I am of opinion that the words 'criminal case' in Rule 101 refer to a criminal case pending before a Panchayati Adalat. Even if the phrase "criminal case" were taken to include a revision before a Sub-Divisional Magistrate, the abatement would be of the revision and not of the order of the Panchayati Adalat.

5. I am, therefore, of the opinion that the order of the Panchayati Adalat does not become void simply because the complainant has died while the revision against that order was pending before the Sub-Divisional Magistrate,

6. It was next urged that some of the Panches did not sign the order-sheet on same dates. This point was not taken before the learned Sub-Divisional Magistrate. In any case, this was a mere irregularity not affecting the merits of the case and I am not prepared to exercise my powers under Article 227 and interfere on such a ground.

7. There is no force in this revision and it is dismissed.