

Tajjamul vs Mohd. Ismail on 12 June, 1952

Equivalent citations: AIR1952ALL925, AIR 1952 ALLAHABAD 925

JUDGMENT

Beg, J.

1. This is an application under Article 227 of the Constitution of India by one Tajammul Khan, who has been convicted under Section 506, Penal Code by the Panchayati Adalat of Rasulpur Tikunia Mau in a case Muhammad Ismail v. Tajammul Khan and sentenced to pay a fine of Rs. 10.

2. A revision was filed against the said order before the Sub-Divisional Officer of Mohanlalganj and was dismissed by him. Aggrieved by the said order, the applicant has filed this application.

3. The main point urged by the learned counsel for the applicant is that a bench of five punches was formed to try this case but only four out of the five punches have signed the judgment. Section 49 (1), U. P. Panchayat Raj Act provides that "the Sarpanch shall, for the trial of every case, suit or proceeding, form a bench of five punches from the panel; provided that at least one of the punches in the Bench shall be a person who is able to record evidence and proceedings.

In accordance with the aforesaid provision a bench of five punches was duly formed for the trial of this case. Section 110, U. P. Panchayat Raj Act, 1947, empowers the State Government to make rules to carry out the purposes of the said Act. Rule 100 framed under Section 110 of the said Act runs as follows:

"After ascertaining the facts of the case, suit or proceeding by examining the parties, their witnesses and the documents produced, if any, and by any other lawful means in its power, the Adalat shall record, in the prescribed register as the case may be, a brief judgment or order and the signatures of the panches and signatures or thumb-impressions of the parties present at the time of the decision shall be affixed to the record and in case of a suit, a decree in the prescribed form shall be drawn up."

It seems to me that under this rule the punches are required to append their signatures to the judgment. The learned counsel for the opposite-party argues that it is not necessary for all the punches to affix their signatures. It is quite enough if the punches present at the time put their signatures on the record. I am, however, of the opinion that the words "present at the time of the decision" govern not the word "panches" but the word "parties". The panches are required to be present at all stages of the suit. As provided in Rule 49 (1), the bench is formed for the trial of the case and the pronouncement of the judgment is itself a part of the trial. It was held in the case of Basil Ranger Lawrence v. Emperor, A. I. R. 1933 P. C. 218 by their Lordships of the Privy Council

that judgment is a part of the trial of the case. I am accordingly of opinion that it is incumbent on all the punches to sign the judgment. It is admitted that judgment in question was not signed by one of the punches. It is, therefore, not proper judgment as required by law.

4. I accordingly allow this application, set aside the judgment of the Panchayati Adalat and order that the case be sent back to the Panchayati Adalat concerned for compliance with the provisions of the statute and for delivery of a judgment duly signed by panches as required by law.