

## Chhedi vs The State on 17 April, 1953

**Equivalent citations: AIR1953ALL752, AIR 1953 ALLAHABAD 752**

ORDER

Desai, J.

1. This is a reference by the Sessions Judge of Allahabad, who recommends that the order of a Magistrate transferring the case to a Panchayati Adalat be set aside and that he be directed to try the case himself. After hearing the case the learned Magistrate came to the conclusion that the offence made out against the accused was punishable only under Section 411, Penal Code and that the value of the stolen property said to have been recovered from his possession was less than Rs. 50. He, therefore, thought that the offence was within the exclusive jurisdiction of a Panchayati Adalat and accordingly transferred it to the Panchayati Adalat having jurisdiction.

2. Property worth more than Rs. 50/- was stolen though only property worth less than Rs. 50/- has been recovered. The learned Sessions Judge is of opinion that the value within the meaning of Section 52(1)(a), Panchayat Raj Act is the value of the property stolen and not that of the property recovered. If the case is of theft, then certainly the value of the total property stolen is the criterion; if it does not exceed Rs. 50/- the case must be tried by a Panchayati Adalat. But the case is of Section 411, Penal Code the value of the recovered property (i.e. the property that was found in possession of the accused) is the criterion and not the value of the total property stolen. In Section 411, Penal Code the Court is only concerned with the property that has been recovered; it is only in respect of that property that the accused is said to have committed an offence. The Court is not at all concerned with the rest of the property which has not been recovered. The Court has nothing to do with the offence of theft; it is not making any enquiry into the theft at all; it is only making an enquiry into the possession of stolen property. Therefore, the words "the value of stolen property" mean, with reference to an offence under Section 411, Penal Code, the value of the stolen property in respect of which the offence under Section 411, Penal Code is said to have been committed. As the value of the property said to have been recovered from the possession of the accused was less than Rs. 50/- the learned Magistrate rightly held that the case was exclusively triable by a Panchayati Adalat. His order is, therefore, correct and the reference is rejected.