

Ramdeo Singh And Ors. vs The State on 27 November, 1953

Equivalent citations: 1954CRILJ1031, AIR 1954 ALLAHABAD 486

Author: V. Bhargava

Bench: V. Bhargava

ORDER

V. Bhargava, J.

1. This is a reference by the learned Additional Sessions Judge of Jaunpur, recommending that this Court be pleased to set aside the orders of the Panchayati Adalat and the learned Sub-Divisional Magistrate and to quash the proceedings. The learned Sessions Judge has purported to make this reference under Section 438, Criminal P. C. on the basis of an application presented before him for exercise of his powers under Section 435, Criminal P. C.

2. The reference raises only one question and is whether the orders of the Panchayati Adalat and of the Sub-Divisional Magistrate under the U. P. Panchayat Raj Act can be subject to revision under Sections 435 to 439, Criminal p. C. In making this reference the learned Sessions Judge has referred to - 'State v. Gaya Din Tewari', Criminal Ref. No. 388 of 1950 (A), which was accepted by a learned Single Judge of this Court though it was made against the proceedings before a Panchayati Adalat. The learned Judge has further relied on another decision of a Single Judge of this Court reported in - 'Pahla v. Makhdoom' , in which case also a reference under the Code of Criminal Procedure was accepted by the Court.

At the same time, the learned Sessions Judge had before him the case of - 'Banshi v. State'. , decided by another learned Single Judge of this Court. The learned Sessions Judge, in applying these three cases, did not realise that he was going wrong in not following the last case and basing his order of reference on the other two cases. Both the cases relied upon by the learned Sessions Judge were certainly cases of reference under the Code of Criminal Procedure which were accepted by this Court under Section 433, Criminal P. C. but, in neither of these two cases, this Court went into the question whether the reference was competent and whether the provisions of Section 439, Criminal P. C. could at all be applied to the proceedings under the U. P. Panchayat Raj Act.

The only case, in which this point was specifically considered and decided, is the third case of , referred to above. When there was a specific ruling dealing with this point, the learned Sessions Judge was not justified in following the other two cases which only impliedly accepted that point. The principle always is that a decision of the High Court is a ruling on a point which is specifically decided in that case and where such a specific decision is available, cases in which action may have

been taken contrary to that view, should not be followed. It is only when there is no specific decision by this Court that it may be possible for the lower courts to follow the course adopted by the Court impliedly in other cases.

With all respect, if I may say so, I entirely agree with the view of my brother Agarwala, J., in the case of , and J do not consider it necessary to refer the case to a Division Bench because, as I have said above, the point was not specifically dealt with and decided in the case of . The proceedings under the Code of Criminal Procedure in the court of the learned Sessions Judge were not competent and this reference, therefore, does not lie.

3. The reference is accordingly rejected.