

Ramai And Ors. vs State Through Pram Hans Singh on 28 January, 1953

Equivalent citations: AIR1953ALL525, AIR 1953 ALLAHABAD 525

JUDGMENT

Brij Mohan Lall, J.

1. This purports to be an application under Section 345 (5A), Criminal P. C.
2. Six persons were convicted by a Magistrate 1st Class of Gorakhpur of offences punishable under Sections 147, 323 and 447, I. P. C. They preferred an appeal which was heard by the learned Additional Sessions Judge of Gorakhpur. He set aside the conviction under Section 447, I. P. C. but maintained the convictions under the remaining two sections. Thereafter a revision was preferred to this Court which was rejected.
3. An application has now been presented jointly on behalf of the complainant and the convicted persons praying that the offence under Section 323, I. P. C. may be permitted to be compounded. No such request is made in respect of the offence under Section 147, I. P. C. for the obvious reason that that offence is not compoundable. Sub-section (5A) of Section 345, Cr. P. C. lays down that:

"A High Court acting in the exercise of its powers of revision under Section 439 may allow any person to compound any offence which he is competent to compound under this section".
4. A plain reading of this section makes it clear that this power can be exercised only while the Court is acting in the exercise of its power of revision under Section 439, Cr. P. C. The Court begins to so act from the time it admits the revision and continues to exercise the revisional power till the revision is disposed of. The moment the revision is decided the Court becomes 'functus officio'. In other words, the power can be exercised during the pendency of the revision only. It will, therefore, follow that this Court has no jurisdiction left now to entertain an application for compounding the said offence.
5. It is argued that Sub-section (5A) is a newly inserted section which was enacted by Act 18 of 1923 with a view to grant special jurisdiction to this Court. The obvious reason for enacting this provision of law was that while jurisdiction to permit compounding of offences was conferred by Sub-section (5) on an appellate Court, there was no express provision empowering a Court of revision to accord similar permission. To fill up this lacuna Sub-section (5A) was enacted. It could not have been the intention of the Legislature to confer a power on this Court to sanction the compounding of offences

even after the dismissal of the revision. By entertaining this application the Court will be entertaining a second revision after disposing of the first. This is not permissible under the law.

6. Reliance was also placed on Section 561A, Cr. P. C. which empowers this Court to "make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice".

But this section also does not cover a case like the present one. The sanction for compounding the offence is not needed to give effect to any order passed under the Criminal Procedure Code, nor is it needed to prevent the abuse of the process of the Court. Nor can it be argued that this order is needed to secure the ends of justice. Justice has already been done and the guilty have been punished. The real reason why the parties want to compound the offence is that the stigma which attaches to the convicted persons as a result of the conviction may be removed and better relations may be established between the parties in future. The object may be laudable but certainly it cannot be contended that it will secure the ends of justice.

7. Having given the matter my best consideration and having heard learned counsel for the parties I am of the opinion that there is no jurisdiction left in this Court to sanction such a compromise.

8. The application is rejected.