

Ramdin And Ors. vs The State Through Bahadur on 18 September, 1950

Equivalent citations: AIR1951ALL554

ORDER

Chandiramani, J.

1. This is an application in revision against the appellate order of Shri Raja Ram Mehra, Civil and Sessions Judge of Sitapur.
2. It appears that the applicants were prosecuted before a Special Magistrate, first class, Sitapur, under Sections. 427, 352 and 447, Penal Code, on the allegation that they had forcibly ploughed up certain fields belonging to the master of the complainant on 3-9-1949, at about 5 A.M., thereby causing loss of Rs. 500 and that when the complainant protested the applicants chased him and he had to save himself by flight. The learned Magistrate did not find the charge under Section 427, proved and acquitted the applicants, but he convicted them under Sections. 352 and 447, Penal Code, and fixed them. The applicants went up in revision to the learned Sessions Judge and urged before him that in view of their convictions under Section 352 and 447, Penal Code, the case was clearly one triable exclusively by the Panchayati Adalat under Sections 52 and 56, U. P. Panchayat Raj Act. The learned Sessions Judge thought that Section 56 was not applicable because it was only after hearing the arguments that the learned Magistrate found the offence under Section 427 not established and that the stage of judgment was not covered by Section 56, Panchayat Raj Act. Accordingly the application in revision was dismissed.
3. It has been urged before me that the interpretation of the learned Judge is erroneous and that the case ought to have been sent to the Panchayati Adalat for trial under Section 56, Panchayat Raj Act. I have heard the learned counsel and am satisfied that this application must be allowed,
4. Section 56, Panchayat Raj Act, reads as follows :

"If at any stage of proceedings in a criminal case pending before a Magistrate it appears that the case is triable by a Pauchayati Adalat, he shall at once transfer the case to that Panchayati Adalat, which shall try the case de novo."

It will be noticed that the Magistrate is required to take action under that section so long as the case is pending and it is immaterial at what stage the proceedings are. So long as the judgment has not been delivered, and the case thus remains undecided and pending, a duty is cast upon the Magistrate to send the case to the Panchayati Adalat should the case be one covered by the provisions of Section 52 of the Act. It is not disputed that in the present case the Magistrate having

found the applicant not guilty under Section 427, Penal Code, the other two charges that remained were under Sections 352 and 447, and these are charges triable by the Panchayati Adalat. The learned Magistrate therefore, was bound under Section 56 to transfer the case to the Panchayati Adalat for trial de novo, and it went wrong in not doing so. The learned Sessions Judge was wrong in his interpretation of Section 56.

5. I allow this application set aside the orders of the Courts below and direct the trial Court to send the case for trial de novo to the Panchayati Adalat having jurisdiction in this case. The fine, if paid, shall be refunded.