

State of Karnataka Vs. Abdul Jaleel

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Court : Karnataka

Decided On : Aug-05-1985

Reported in : ILR1986KAR1205; 1985(2)KarLJ474

Judge : Desai and Ramakrishna, JJ.

Acts : Karnataka Silkworm Seed Cocoon and Silk Yarn (Regulation of Production, Supply, Distribution and Sale) Act, 1959 - Sections 13(3); [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397

Appeal No. : Crl. R.P. Nos. 153 and 155 of 1983

Appellant : State of Karnataka

Respondent : Abdul Jaleel

Advocate for Def. : Paras Jain, Adv.

Advocate for Pet/Ap. : State P.P.

Judgement :

ORDER

Desai, J.

1. The respondents in these two Revision petitions are Silk realers. The Assistant Director (Enforcement), Department of Sericulture, Government of Karnataka,

Bangalore on verification of the accounts of the respondents, found that they had disposed of silk reeled by them outside the Silk Exchange in violation of Section 8A of the Karnataka Silkworm Seed Cocoon and Silk Yarn (Regulation of Production, Supply, Distribution and Sale) Act, 1959 (for short 'the Act') and the Rules and notifications issued thereunder. On the basis of that report, the Deputy Director (Enforcement), Department of Sericulture, Government of Karnataka, Bangalore, registered cases against the respondents. The Director of Sericulture, on hearing them, imposed a penalty of Rs. 2,000/- on each of the respondents. Being aggrieved by the said orders of the Director of Sericulture, the respondents filed Criminal Appeal No. 47/1981 and 48/1981 respectively on the file of the Additional Sessions Judge, Bangalore Rural District, Bangalore, who, by his order dated 18-11-1982 allowed both the appeals and set aside the said orders of the Director of Sericulture, Bangalore.

Aggrieved by the said orders of the Additional Sessions Judge, Bangalore Rural District, Bangalore, the State has preferred these two Revision petitions.

2. A preliminary point regarding the maintainability of those, revision petitions was raised by Sri Paras Jain. Learned Advocate for the respondents. According to him, the order of the Learned Sessions Judge is not amenable to the revisional jurisdiction of this Court under Sections 397 read with 401 Cr. P. C. since the Sessions Judge while passing the impugned order did not act as an inferior Criminal Court but acted as *persona designata* being a statutory authority constituted under the Act to dispose of appeals arising thereunder and since the order of the Sessions Judge is made final under Section 13(3) of the Act. In support of his contention, he relied upon the decision in *The State of Karnataka and anr. v. Thimmappa*, ILR 1984 (2) KAR 93, 1975(2) KLJ 352.

3. The Learned Single Judge, who heard the parties on the preliminary point, doubted the correctness of the decision in *Thimmappa's case*, ILR 1984 (2) KAR 933 and has therefore referred these two revision petitions to the Division Bench for decision. Therefore, the question for consideration is whether a party to an appeal disposed of by the Sessions Judge under Section 13(3) of the Act can file a revision petition under Section 397 read with 401 Cr. P.C. Section 13(3) of the Act

reads thus:

'Section 13(3) - Any person aggrieved by the order of suspension or cancellation of licence or forfeiture of property or imposition of penalty under Sub-section (1), may appeal to the Sessions Judge of the District within such time and in such manner as may be prescribed and the decision of the Sessions Judge on such appeal shall be final.'

4. Two questions arise for consideration :

1. Whether the Sessions Judge referred to in Section 13(3) of the Act is a Court subordinate to this Court against whose order a petition under Section 397 Cr.P.C. lies or is he a persona designata and

2. Whether the words in Section 13(3) of the Act viz., 'the order of the Sessions Judge on such appeal shall be final' preclude this Court from exercising jurisdiction under Section 397 Cr. P.C.. if it is held that the Sessions Judge is a Court subordinate to this Court.

5. In *Thakur Das v. State of Madhya Pradesh and anr.*, : 1978 CriLJ1 the Supreme Court while considering the question of the revisional jurisdiction of the High Court under Sections 435 and 439 of the old Code of Criminal Procedure was pleased to observe thus :

'When the Sessions Judge was appointed an appellate authority by the State Government under Section 6C of the Essential Commodities Act, what the State Government did was to constitute an appellate authority in the Sessions Court over which the Sessions Judge presides. The Sessions Court is constituted under the Code of Criminal Procedure and indisputably it is an inferior Criminal Court in relation to High Court. Therefore, against the order made in exercise of powers conferred by Section 6C a revision application would lie to the High Court.'

6. In these cases also, under Section 13(3) of the Act an appeal is provided to the Sessions Judge of the District. Therefore, it is clear that the intention of the legislature was to constitute an appellate authority in the Sessions Court over which the Sessions Judge presides. The Sessions Court is a pre-existing judicial

authority.

7. In *Ganesha Rao v. Sarphina D'Souza Bai*³, a Division Bench of this Court was pleased to hold that the expression 'District Judge' in Section 48 of the Karnataka Rent Control Act, 1961 as it stood then, to whom an appeal lies from an order of Munsiff passed under Section 21 of the said Act, meant 'the District Court' having jurisdiction over the area in which the house in question was situated and the plea that the District Judge was a *persona designata* was rejected.

8. Therefore, we hold that the expression 'Sessions Judge' in Section 13(3) of the Act means 'the Sessions Court' having jurisdiction over the area in which the realer carries on business. The Sessions Court is constituted under the Code of Criminal Procedure and indisputably it is an inferior Criminal Court in relation to this Court. Therefore we hold that the order made in exercise of the powers conferred by Section 13(3) of the Act by the Sessions Judge is revisable by this Court.

9. In *Chhan Lal v. The Municipal Corporation, Indore*, : [1977]2SCR871 a contention was raised under Section 149 of the Madhya Pradesh Municipal Corporation Act, 1956, that, as the order of the District Judge in appeal was made final no revision could be entertained by the High Court against that order. The said contention was rejected and it was held that under Section 115 of the C.P.C., the High Court has got power to revise the order passed by Courts subordinate to it. So, in view of the said decision,, it is clear that though the order of the Sessions Judge is made final under Section 13(3) of the Act, this Court can entertain a revision petition under Section 397 Cr. P. C. against the said order. Hence we bold that the Sessions Judge exercising powers under Section 13(3) of the Act is a Sessions Court having jurisdiction over the area concerned and as the Sessions Court is an inferior Criminal Court with reference to this Court, this Court can entertain a revision petition against the order of the Sessions Judge.