

Behari Lal and anr. Vs. State

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Court : Allahabad

Decided On : Sep-10-1964

Reported in : AIR1967All130; 1967CriLJ304

Judge : H.C.P. Tripathi, J.

Acts : Untouchability (Offences) Act, 1955 - Sections 6 and 7(1)

Appeal No. : Criminal Ref. No. 321 of 1963

Appellant : Behari Lal and anr.

Respondent : State

Advocate for Def. : Government Adv.

Advocate for Pet/Ap. : Tejpal, Adv.

Judgement :

ORDER

H.C.P. Tripathi, J.

1. This reference has been made by the learned Civil and Sessions Judge, Tehri Garhwal, recommending that the conviction of the applicants under Section 6 of the Untouchability (Offences) Act, 1955 be altered into a conviction under Section 7(1)(b) of the same Act.

2. The facts of the case as have been found established by the Courts below are, in brief, as follows:

On 29-5-1962 respondents were taking water from a public water tap. Sundari Devi came there after responding to call of nature and wanted to wash her hands. The respondents prevented her from taking water from the tap on the ground that she happened to be a daughter of a scheduled caste (Dome) and when she tried to take water then respondent Bihari Lal got angry as she had touched his utensils and exclaimed that she being the daughter belonging to a scheduled caste has profaned him by touching his utensils and successfully prevented her from taking the water. These facts were found established by the Magistrate and he convicted the respondents under Section 6 of the Untouchability (Offences) Act and sentenced them to a fine of Rs. 20 each. On revision the learned Sessions Judge agreed with the Magistrate that the facts alleged against the respondents had been established but he was of opinion that they made out a case under Section 7(1)(b) of the Untouchability (offences) Act and Section 6 of the same Act was wholly inapplicable.

3. Learned counsel for the applicants have argued that no case has been made out against them under any section of the Untouchability (Offences) Act. Learned counsel says that even if Bihari Lal and his wife protested when Sundari Devi touched their utensils, they did not commit any offence.

4. Section 7(1)(b) of the Untouchability (Offences) Act, 1955 reads:

'(1) Whoever-

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; shall be punishable.'

This section is too wide and it does cover a case of the present nature also where the allegations found established by the courts below are that when Sundari went to take water from the public water tap, she was prevented from doing so by the

respondents on the ground that she happened to be the daughter of a scheduled caste. This will amount to an annoyance and obstruction within the meaning of Section 7(1)(b) of the Act. I am, therefore, satisfied that an offence has been made out against the respondents under Section 7(1)(b) of the Act.

5. Section 6 of the Act is obviously inapplicable to the facts of the case. That section provides punishment for refusing to sell goods or render service on the ground of untouchability.

6. Taking into consideration the strong prejudices which are still continuing in that part of the State, coupled with the fact that Sundari had come to the tank after responding to the call of nature and while attempting to take water had touched the utensils of the opposite parties which in the natural course of events must have given them the cause of provocation, I think the ends of justice will be met if the sentence of fine imposed on them is reduced to Rs. 10 each.

7. This reference is accepted. The conviction and sentence of the applicants under Section 6 of the Act are set aside and instead they are convicted under Section 7(1)(b) of the Act and sentenced to pay a fine of Rs. 10 each. In default, each of them will undergo simple imprisonment for five days.

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