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Nata Vs. the State

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Court : Allahabad

Decided On : Dec-14-1953

Reported in : AIR1954All600

Judge : Harish Chandra, J.

Acts : Uttar Pradesh Panchayat Raj Act, 1947 - Sections 59

Appeal No. : Criminal Revn. No. 2033 of 1953

Appellant : Nata

Respondent : The State

Advocate for Pet/Ap. : Sadiq Ali and ;Haidar Shaukat Abidi, Advs.

Disposition : Application rejected

Judgement :
ORDER

Harish Chandra, J.

1. The question that arises in this case is whether the case has or has not been properly tried by a Magistrate. It is said that it should have been tried by the Panchayati Adalat inasmuch, as the value of the property which is said to have been the subject-matter of the alleged theft was below Rs. 50. It appears that the

question was raised before the Magistrate. But he foundthat the applicant had been previously convicted under Sections 148, 332 and 326, Penal Code which offences are punishable with imprisonment up to a maximum period of three years or more. He thought that in view of Section 59(a), U. P. Panchayat Raj Act, 1947 (No. 26 of 1947), the Panchayati Adalat had no jurisdiction to try the offence. Section 59(a) runs as follows:

'59. No Panchayati Adalat shall take cognizance of any offence in which the accused.

(a) has been previously convicted of an offence with imprisonment of either description for a term of three years or more.'

2. The contention of learned counsel for the applicant is that it is only when a person has not only been previously convicted of such an offence but has also been sentenced to imprisonment of either description for a term of three years or more, that the Panchayati Adalat is deprived of the power to take cognizance of a case in which that person may have charged of an offence afterwards. The learned Magistrate interpreted the section to mean that the offence of which, the accused person has been previously convicted should be one punishable with imprisonment of either description for a term of three years or more irrespective of the actual sentence that may have been passed upon him. No doubt, Clause (a) of Section 59 is not very happily worded. But the interpretation adopted by the learned Magistrate seems to be the correct one. The section is not open to any other interpretation. For it would be absurd to read the word 'convicted' as meaning 'sentenced'.

3. In my view the learned Magistrate was quite right in holding that the Panchayati Adalat had no jurisdiction to try the case and in trying it himself. It is said that the sentence of six months' rigorous imprisonment and a fine of Rs. 50/- passed upon the applicant is too severe. According to the findings of the courts below the applicant was found stealing potatoes from the field of the complainant and had actually dug out one maund of them from the field. There were other associates of the applicant with him at the time doing the same act. But they ran away when the servants of the complainant arrived on the scene. Whatever may be the price of

one maund of potatoes, in my opinion a light view cannot be taken of the offence.

4. The application is accordingly rejected.

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