

Smt. Katki Devi Vs. Rameshwar Prasad Alias Budhai and ors.

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Court : Allahabad

Decided On : Feb-16-1972

Reported in : 1973CriLJ1095

Judge : B.D. Gupta, J.

Appellant : Smt. Katki Devi

Respondent : Rameshwar Prasad Alias Budhai and ors.

Judgement :

ORDER

B.D. Gupta, J.

1. This is a revision on behalf of the complainant against an order of a learned Sessions Judge dated 20-1-1971 whereby he took the view that the charge under Section 120B, IPC could not be taken cognizance of and deciding to proceed with the trial only in so far as it related to the charge punishable under Section 465, IPC

2. The opposite parties to this revision were committed to the Court of Session for being tried for offences punishable under Sections 465 and 120B, Indian Penal Code. During the pendency of the case before the Sessions Judge, an application was moved on behalf of the opposite parties praying that the trial of the applicants on the charges on which they had been committed to the Court of Session was barred by the provisions contained in Section 196-A, Criminal Procedure Code

and that, therefore, charges against the applicants be quashed. The learned Sessions Judge took the view that sanction of the State Government was necessary to enable him to try the applicants for the charge under Section 120B, Indian Penal Code and since there was no such sanction the order passed by the learned Sessions Judge was that the trial will proceed only in so far as it related to the charge punishable under Section 465, Indian Penal Code. The complainant then approached this Court and the contention raised on behalf of the applicant is that the view taken by the learned Sessions Judge is not correct. Learned counsel placed reliance on a decision of the Calcutta High Court, in the case of Suren-dra Mohan Basu v. Saroj Ranjan Sarkar, reported in : AIR1961 Cal461 . A perusal of the said decision makes it clear that in a case where the offence for the commission of which a conspiracy had been hatched and the offence, committed in pursuance of the conspiracy, there was no occasion left for trying the offenders for the offence of conspiracy punishable under Section 120B, Indian Penal Code. The view expressed is that once the offence itself has been committed, the offenders should be tried for the commission of the offence itself. In this view of the matter the learned Sessions Judge was perfectly justified in deciding to proceed with the trial as confined to the charge punishable under Section 465, Indian Penal Code inasmuch as it is not in controversy that according to the case set forward by the complainant the applicants committed the offence punishable under Section 465, Indian Penal Code. It does not appear necessary to go into the exact terms of the order which the learned Sessions Judge should have passed in regard to the charge punishable under Section 120B, Indian Penal Code. It has been observed by the Supreme Court in the case of Madan Lai v. The State of Punjab : 1967 CriLJ1401 , that in a case-j where the accused was charged under Section 120B read with Section 467, Indian Penal Code without the necessary sanction, the court was to proceed with the trial as if the charge under Section 120B had never been framed.

3. I am satisfied that no interference is called for and the result is that this revision is dismissed and the order of this Court dated 26th of March, 1971, staying further proceedings is vacated.

4. Let the record of the case be immediately sent back to the Court concerned to avoid further delay in the trial.

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