

Jai Singh and ors. Vs. State

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SooperKanoon Citation : sooperkanoon.com/477748

Court : Allahabad

Decided On : Sep-05-1952

Reported in : AIR1952All991

Judge : Malik, C.J. and ;V. Bhargava, J.

Acts : [Constitution of India](#) - Articles 134, 134(1) and 136

Appeal No. : S.C. Misc. Case No. 28 of 1952

Appellant : Jai Singh and ors.

Respondent : State

Advocate for Def. : Govt. Adv.

Advocate for Pet/Ap. : S.N. Mulla, Adv.

Disposition : Application dismissed

Judgement :

Malik, C.J.

1. We have heard learned counsel for the applicants.

2. The learned counsel has urged that the evidence led on behalf of the prosecution was not reliable and the accused specially Devi Singh and Megh

Singh could not be convicted on such evidence. This is however, not a point on which we can grant leave under Article 134(1)(c) of the Constitution.

3. This Court, in an application for leave to appeal to the Supreme Court in a criminal matter, has to be guided by the provisions of Article 134 of the Constitution and, if the case does not come under Clauses (1) (a) and (b) of Article 134, then a certificate can be granted only if the case is a fit one for appeal to the Supreme Court and the question, whether the case is or is not a fit case for appeal to the Supreme Court, must be decided in accordance with the principles laid down by their Lordships of the Judicial Committee which have since been re-affirmed by their Lordships of the Supreme Court. Learned counsel has urged that special leave has been granted even on question of fact and this Court should grant leave even in cases where the point raised is that the evidence on which the conviction was based was either unreliable or insufficient. The Supreme Court in granting special leave is not governed by Article 134. Under Article 136 the powers of that Court are much wider and it can in its discretion grant special leave in any case.

4. In support of his application learned counsel has urged that the Supreme Court has at times considered the evidence and has interfered with the concurrent findings of fact. The jurisdiction of the Supreme Court in matters coming up before it is not limited by any provision in the Constitution and that Court is not precluded from going into questions of fact if it considers it necessary. But this Court, in granting leave, must be governed by the provisions of Article 134 and the interpretation put on it, and we cannot, therefore, hold that the question, whether the evidence is or is not reliable when that evidence has been believed by the Sessions Judge and by this Court, justifies the grant of a certificate under Article 134(1)(c) of the Constitution. We, therefore, see no reason to grant leave in this case.

5. The application is rejected.