

Sat Narain Vs. Sarju

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Court : Allahabad

Decided On : Nov-21-1923

Reported in : 83Ind.Cas.350

Judge : Stuart and ;Kanhaiya Lal, JJ.

Appellant : Sat Narain

Respondent : Sarju

Judgement :

Stuart, J.

1. These are three applications by which the High Court is asked to transfer cases pending before a pan-Ghayai constituted under Local Act VI of 1920 from the panchayat seised with hearing the cases to some other Court or panchayat competent to entertain the same. The applicants applied to the ' Collector, ' that is to say, to the Sub-Divisional Officer exercising the powers of a Collector under Section 74. He refused to interfere in. the matter on the ground of the vagueness of their allegations. In respect of the merits of the matter both my learned brother and myself are satisfied that there is no reason for interfering and these applications will be dismissed on the facts. But inasmuch as in the order of reference by which the matter came before us certain points have been raised as to our jurisdiction I consider it advisable to express my own opinion on the competence of the High Court to entertain such applications. It appears to me

clear that a village panchayat constituted under the provisions of Local Act VI of 1920 is not a 'Criminal Court' within the meaning of Chapter II of the amended Code of Criminal Procedure and as it is not a Criminal Court within the meaning of that Act Section 526 would have no application. It has, however, been pressed upon us that this Court would have power to transfer under the provisions of Section 22 of the Letters Patent of this Court. Section 22 of the Letters Patent is as follows:

We do further ordain that the said Court shall have power to direct the transfer of a criminal case or appeal from any Court to any other Court of equal or superior jurisdiction.

2. Village panchayats are in no way subordinate to the authority of the High Court. The High Court cannot in any way interfere either in appeal or revision with their decisions. The only authority which can interfere with their decisions is the Collector or the officer to whom the Collector's powers are delegated under the provisions of the Local Act. These officers are Revenue Officers. It appears to me impossible to read the words in Section 22 of the Letters Patent 'From any Court to any other Court of equal or superior jurisdiction' to mean more than ' From any Court subordinate to the High Court's authority to any other Court of equal or superior jurisdiction subordinate to the High Court's authority.' If a Court is not subordinate to the High Court's authority how can the High Court make its order effective? As far as I can see if this Court ordered a panchayat to transfer a case to another panchayat and either panchayat refused to obey the High Court's order, the High Court would have no method of enforcing its order, and for this reason alone I cannot see that Section 22 can have any application. I, therefore, give it as my view that this Court has no jurisdiction to direct the transfer of a case from a panchayat constituted under the provisions of Local Act VI of 1920.

Kanhaiya Lal, J.

3. The question for consideration in these cases is whether this' Court is competent under Section 526 of the Code of Criminal Procedure or Section 22 of the Letters Patent to transfer a criminal proceeding pending before a village

panchayat to another village panchayat.

4. The village panchayats were established under the United Provinces Act VI of 1920. As the preamble to that Act shows they were constituted to assist in the administration of civil and criminal justice, and special jurisdiction was conferred on them to try and dispose of certain civil suits and certain classes of criminal cases. Section 43 of the Act provides that in discharging this duty the panchayat shall be bound by; no laws of evidence and procedure other than the procedure prescribed under that Act. Section 52 declares that except as provided by Section 71 no order or decree of a panchayat shall be called in question in any Court on the ground that it was passed without jurisdiction. By Section 71 the Collector is given authority

(a) to cancel the jurisdiction of a panchayat with respect to any proceeding or case or,

(b) to quash any proceedings of a panchayat at any stage, or

(c) to cancel any order or decree passed by it.

5. Section 53 lays down that except the Collector, no Court or authority shall have power to revise any decree or order passed by a panchayat in a suit. There is no such provision in regard to a criminal proceeding pending before a village panchayat. But Section 526 of the Code of Criminal Procedure is limited in its application to criminal proceedings' pending before a Criminal Court subordinate to the High Court. This Court has not been given any authority either by the Village Panchayat Act or by the Code of Criminal Procedure to exercise any authority over the Courts constituted under Act VI of 1920. It can call for no returns from these panchayats or issue any directions as to the manner in which they are to discharge their duties.

6. There is no such limitation, however, in. Section 22 of the Letters Patent. Section 20 defines the authority of the High Court as a Court of Appeal over the criminal Courts subordinate to it, and Section 21 similarly describes the authority of the High Court as a Court of reference and revision over the criminal Courts

subordinate to its appellate jurisdiction. But Section 22 gives wider powers and authorises the High Court to transfer any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction and also to direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try, though such case may belong in the ordinary course to the jurisdiction of any other-officer or Court, Such an officer or Court may or may not ordinarily be subordinate to its appellate authority, but for purposes of transfer would be subordinate. The word 'Court' is not defined in the U. P. General Clauses Act or in the Code of Criminal Procedure or the Village Panchayat Act, and as pointed out in *Empress v. Ram Lal* 15 A. 141 A.W.N. (1893) 59 : 7 Ind. Dec. (N.S.) 809 'it must in the absence of any definition be taken in its ordinary sense.' According to Strouds' Judicial Dictionary, the word 'Court' ordinarily means a place where justice is judicially administered. The preamble to the Village Panchayat Act shows that the village panchayats were constituted for the purpose of assisting in the administration of civil and criminal justice. The village panchayat must, therefore, be deemed to be a Court for the purpose of Section 22 of the Letters Patent, and I am inclined to think that in the absence of any limitation imposed by any Act, the High Court has power under that section to transfer any criminal proceeding pending before a village panchayat to another village panchayat empowered to take cognizance thereof. I concur, however, with my learned brother in thinking, that no sufficient reason for a transfer has been made out and I agree in rejecting these applications.

7. By the Court.--The applications are rejected.

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