

State of Madhya Pradesh Vs. Nandram

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Court : Madhya Pradesh

Decided On : Oct-14-1960

Reported in : 1961CriLJ494

Judge : V.R. Nevaskar and ;H.R. Krishnan, JJ.

Appellant : State of Madhya Pradesh

Respondent : Nandram

Judgement :

V.R. Nevaskar, J.

1. The only question involved in these proceedings is whether the Nyaya Panchayat Court constituted under the Madhya Bharat Panchayat Vidhan Samvat 2006 has jurisdiction to punish an accused for its contempt when the offence is committed within its view.
2. In order to appreciate the two opposing views on this question it will be necessary to refer to certain provisions under Criminal Procedure Code and the Madhya Bharat Panchayat Act.
3. Section 480 of the Criminal Procedure Code which deals with the power of a Court to punish a person for its contempt is as follows:

When any such offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender to be detained in custody and at any time before the rising of the Court on the same day may, if thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

The word 'Court' is not defined under the Criminal Procedure Code. According to Stroud's Judicial Dictionary the word 'Court' means 'a place where justice is judicially administered.' Section 19 of the Indian Penal Code defines 'judge' and Section 20 defines 'Court of Justice.'

4. Section 19 I.P.C. is as follows:

The word 'Judge' denotes not only every person who is officially designated as a Judge, but also every person- Who is empowered by law to give, in any-legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against would be definitive or a judgment which, if confirmed by some other authority, would be definitive, or Who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Section 20 I.P.C. is as follows:

The words 'Court of Justice' denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

5. Section 65 of the Madhya Bharat Pan-chayat Act Samvat 2006 provides:

Notwithstanding anything contained in any act for the time being in force in the United State such civil or criminal suits or cases which are in the jurisdiction of Nyaya Panehayat tinder this Act shall be instituted before that Nyaya Panehayat in whose jurisdiction the defendant or any of the defendants, where they are more than one, ordinarily resides or the offence is committed.

On a publication of notification in Gazette a Nyaya Panehayat will be competent to hear any suit or case under any other Act.

6. Section 75 of the said Act lays down:

Offences under the following sections, if committed within the jurisdiction of a Nyaya Panehayat as well as abetments of and attempts to commit such offences shall be cognizable by such Nyaya Panehayat:

(a) Sections 140, 160, 172, 174, 179, 277, 279, 283, 285, 286, 289 290, 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379, 403, 411 where the value of the stolen or misappropriated property as far as Sections 379, 403 and 411 are concerned, does not exceed fifty rupees, 426, 428, 430, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code, 1860.

(b) Offence under Madhya Bharat Cattle Trespass Act Samvat 2007 Act No. 26 of 1950.

(c) An offence under this Act or any rule made thereunder.

(d) Any other offence under any other enactment declared by the Government.

7. One view is that since the legislature in conferring jurisdiction upon the Nyaya Panchayat to take cognizance of an offence committed within its jurisdiction under Section 75 of the Madhya Bharat Panehayat Act has thought fit not to include therein the offence under Section 228 I.P.C, it should be assumed that the said offence is not punishable by it even if the same is committed within its view. In short the provisions of Section 480 Cr. P. Code are controlled by the terms of Section 75 of the Madhya Bharat Panehayat: Act which impliedly exclude the jurisdiction of the Nyaya Panehayat to try offences referred to in Section 480 Cr. p. Code except offence under Section 179 I.P.C.

8. Second view is that although the jurisdiction is conferred upon Nyaya Panchayat: to try only certain offences committed within its jurisdiction which do not include Section 228 I.P.C, yet by reason of specific and special power conferred upon it as a Court, the Nyaya Panehayat can punish a person for the

said offence if it is committed within its view. The absence of reference to this offence in the list of offences mentioned in Section 75 of the Madhya Bharat Panehayat Act cannot have effect of depriving it of that power which it could otherwise exercise under Section 480 Cr. P. Code on the ground of its being a Civil or a Criminal Court. It is said that existence of such a power is implicit in its being a court and is necessary to enable it to perform effectively its duties and functions.

9. The first view is supported by the decision reported in *Ambica Missir v. Surpanch*, G.P.B.P. : AIR1958 Pat94 .

10. It appears from the terms of Section 480 Cr. P. Code that any civil or criminal court can try any of the five offences mentioned therein if it is committed in the view of the said court notwithstanding the fact that ordinarily it does not possess power to try that offence. The jurisdiction conferred by the section is special and if the conditions laid down in. Section 480 Cr. P. Code are fulfilled the power to try summarily and punish arises.

11. Now a Nyaya Panehayat constituted under the Panehayat Vidhan is a court exercising] civil and criminal jurisdiction: vide *Sukhdeo v. Brij Bhushan* : AIR1951 All667 and *Ashrifi Lal v. The State* : AIR1952 All306 . If there is nothing in the Madhya Bharat Panehayat Vidlian to take away the power conferred upon it as a civil or criminal court under Section 480 Cr. p. Code then it can certainly exercise that power. The only question then is whether there is anything in the Madhya Bharat Panehayat Vidhan to exclude such a power.

No doubt Section 75 of the Panehayat Vidhan gives list of offences cognizable by a Nyaya Panehayat if the same are committed within its jurisdiction and out of the offences referred to in Section 480 Cr. P. Code only offence mentioned in this Section is that Section 179 I.P.C. But: the offence referred to here need not be committed in the view of the court. Thus this section provides for an ordinary power of the Nyaya Panehayat to try an offence mentioned in Section 75 I-P.C. just in the same way as Schedule II of the Criminal Procedure Code provides for ordinary powers of different kinds of criminal court mentioned in its last column. It is significant to note that so far as the offence under Section 228 I.P.C. is

concerned it is triable by any Criminal Court in which the offence is committed subject to the provisions of Chapter XXXV which contains Section, 480 Cr. P. Code.

12. Thus for the purpose of offences mentioned in Section 480 Cr. P. Code all civil and Criminal Courts are constituted special criminal courts and summary power of trial are conferred upon them. This power is over and above what it otherwise possesses. There is nothing in the Panchayat Vidhan to exclude the exercise of this power by the Nyaya Panchayat. When therefore Section 179 I.P.C. is mentioned in Section 75 of the Madhya Bharat Panchayat Vidhan all that it means is that the said offence if committed within its jurisdiction, whether committed within its view or not is triable by it under its ordinary procedure. From this it does not follow that it cannot exercise its special power under Section 480 Cr. P.C. and try the said offence if committed within its view summarily.

13. The reasoning of the Patna High Court in AIR 1958 Pat 94 is that: 'this exclusion would appear to have been made by the Legislature deliberately, since while giving jurisdiction to Gram Kacheri similar to Nyaya Panchayat for the trial of offences as defined in Sections 178 and 179 I.P.C. such jurisdiction was not given in respect of offences as defined in Sections 175, 180 and 228 I.P.C. Section 62 of Bihar Panchayat Raj Act 7 of 1948 corresponds to Section 75 of the Madhya Bharat Panchayat Vidhani.

14. With respect I am unable to consider this as decisive. It is no doubt true that by the terms of Section 62 of the Bihar Panchayat Raj Act 7 of 1948 power is not conferred upon the Gram Kacheri to try the offence under Section 228. But that section does not take away the power conferred upon Gram Kacheri under Section 480 Cr. P. Code as being a court. Since as far as I can see this power is conferred irrespective of the ordinary powers of a Court.

15. It thus appears that the Nyaya Panchayat had sufficient jurisdiction to take cognizance of its contempt committed within its view and to punish an offender by reason of Section 480 Criminal Procedure Code.

16. As regards the merits it is clear that the respondent had been summoned to appear before the Nyaya Panchayat to give evidence. The respondent did not appear in pursuance of a summons and had to be brought under a warrant. On reaching the court he created a scene there by shouting and ultimately imputing great irregularity (Dhandli) to Nyaya Panchayat on their face. This certainly amounts to contempt as defined under Section 228 LP.C. There is interference with the business of the court and at the same time there is intentional insult offered to the court. The Nyaya Panchayat therefore rightly convicted the respondent.

17. The Nyaya Panchayat however imposed a fine of Rs. 75/-. This is excessive having regard to the position of the respondent and the nature of the offence. We would consider imposition of fine of Rs. 10/- to be sufficient in the circumstances of the case to meet ends of justice.

18. The appeal is consequently allowed. The order of acquittal passed by the First Additional Sessions Judge, Indore is set aside and that of conviction passed by the Nyaya Panchayat is restored. He is however sentenced to pay a fine of Rs. 10/- only, to this extent the order of the Nyaya Panchayat is modified.

H.R. Krishnan, J.

19. I agree