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State of Rajasthan Vs. Manphool and ors.

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Court : Rajasthan

Decided On : Aug-23-1954

Reported in : AIR1954Raj271

Judge : Wanchoo, C.J. and; Dave, J.

Acts : Constitution of India - Articles 133, 134(1) and 136

Appeal No. : Criminal Misc. Case No. 70 of 1954

Appellant : State of Rajasthan

Respondent : Manphool and ors.

Advocate for Pet/Ap. : K.S. Hajela, Adv. General and; L.N. Chhangani, Govt. Adv.

Disposition : Application dismissed

Judgement :

Wanchoo, C.J.

1. This is an application by the State of Rajasthan under Article 134(1)(c) of the Constitution for a certificate that the case, with respect to which this application has been made, is fit for appeal to the Supreme Court.

2. The facts are that seven persons were prosecuted for the murder of three others, namely Pat-ram and his wife and Patram's son Brijlal. The motive for the murders was said to be pre-existing enmity between the two sides, and the murders were alleged to be the result of a conspiracy between the seven accused. Two of the deceased Pat-ram and his wife were killed at their house, while the third Brijlal was killed at the field. Thereupon there were two eases in the trial Court with respect to these incidents, which resulted in two appeals to this Court. Both the appeals were allowed, and the accused persons were acquitted.

This application is against four out of seven accused who were acquitted. One of these four Manphool was convicted by the Sessions Judge with respect to the murder of Patram and his wife, while the other three were convicted in the other case relating to Brijlal. We have not been able to understand how the State has filed one application for leave to appeal when there were two separate trials in the Sessions Court and two separate appeals in this Court, though this Court disposed of the two appeals by a common judgment. Be that as it may, we have to see whether this is a fit case in which we should grant the certificate prayed for.

3. We have gone through the judgment of the Bench of this Court which decided the appeals, and the grounds on which the State wants us to grant the certificate of fitness. It is quite clear from the examination of these two documents that the questions involved in the two appeals were really questions of fact, and the learned Judges held that the evidence of the eye-witnesses was not reliable, and therefore acquitted the accused persons. What the State wants is that we should certify the case as fit for appeal so that the Supreme Court may review the entire evidence and come to its own conclusions as to whether the view of this Court that the witnesses were not reliable is correct or not.

Learned Advocate-General has placed reliance on-- Pritam Singh v. State', AIR 1950 SC 169 (A) and-- 'Habib Mohammed v. Hyderabad State', AIR. 1951 Hyd 71 (B). His contention is that in granting leave under Article 134(1)(c), we should be guided by the same considerations which have been laid clown by the Supreme Court in -- 'Pritam Singh's case (A)', and he paraphrases these considerations to mean that if we arc: of the view that the Supreme Court is likely to interfere with

the judgment of this Court, we should grant leave. We must say that we cannot agree with this contention of the learned Advocate-General. In the first place, the considerations which apply to the granting of special leave by the Supreme Court under Article 136 are, in our opinion, different from the considerations which apply to the High Court granting leave under Article 134(1)(c).

Article 136 is a kind of residuary Article giving power to the Supreme Court, notwithstanding anything in Chapter IV of Part V of the Constitution, to grant special leave to appeal in its discretion from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in the territory of India. Article 134(1)(c), which applies to criminal matters, is exactly in the same terms as Article 133(1)(c) which applies to civil matters, and we think that similar principles should apply to the grant of a certificate by the High Court under Article 134(1)(c) which apply to the grant of a certificate under Article 133(1)(c).

We must, therefore, respectfully express our dissent from the view taken in -- Habib Mohammed's case (B)' that the principles in connection with the grant of special leave to appeal to Supreme Court in criminal cases laid down in -- 'Pritam Singh's case (A)' are useful as furnishing a sound basis in the matter of granting a certificate of fitness under Article 134(1)(c) in the absence of any rules under Article 143.

4. An examination of -- 'Pritam Singh's case (A)' does not, in our opinion, bear out the wide interpretation which the learned Advocate-General wants us to give to that case. At page 170 the following observations appear;

'This Court (i.e. the Supreme Court) is not an ordinary Court of criminal appeal and will not, generally speaking, allow facts to be re-opened, especially when two Courts agree in their conclusions in regard to them and when the conclusions of fact which are challenged are dependent on the credibility of witnesses who have been believed by the trial Court which had the advantage of seeing them and hearing their evidence.'

Then again at p. 171 appear the following observations:

'It is sufficient for our purpose to say that though we arc not bound to follow them too rigidly since the reasons, constitutional and administrative, which sometimes weighed with the Privy Council, need not weigh with us, yet some of those principles are useful as furnishing in many cases a sound basis for invoking the discretion of this Court in granting special leave. Generally speaking, this Court will not grant special leave, unless it is shown that exceptional and special circumstances exist, that substantial and grave injustice has been done and that the case in question presents features of sufficient gravity to warrant a review of the decision appealed against.'

We are of opinion that, even on the principles laid clown in -- 'Pritam Singh's case (A)', it can hardly be said that exceptional and special circumstances exist in this case, that substantial and grave injustice has been done, and that the case in question presents features of sufficient gravity to warrant a review of the decision. We are, however, further of opinion that in order that the High Court may grant a certificate under Article 134(1)(c), there must be similar considerations present whieh apply to civil cases under Article 133(1)(c). These considerations are that some clear departure from the requirements of justice has taken place or some disregard of legal principles has occurred, or some failure of the principles of natural justice has taken place, or there is some question of law of general public importance arising in the case. If these considerations do not arise, the High Court will not grant a certificate under Article 134(1)(e) merely on the ground that the Supreme Court might come to a different decision.

In the case before us none of these considerations arise. What the learned Advocate-General urges is that there is a possibility that the Supreme Court might come to a different decision, and therefore we should grant a certificate. We arc of opinion that a certificate cannot be granted for this reason, and there arc no grounds in this case which we consider essential for the grant of a certificate in such cases.

5. The application is hereby dismissed.

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