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Panchu Lal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-06-1998

Reported in : 1998(2)WLC400; 1998(1)WLN141

Judge : S.K. Sharma, J.

Appeal No. : S.B. Criminal Misc. Petition No. 136 of 1998

Appellant : Panchu Lal

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

S.K. Sharma, J.

1. Admittedly the petitioner was not an accused before the learned trial court. While disposing of Criminal Case No. 434/1987, the learned Additional Civil Judge (Junior Division) and Judicial Magistrate, Tonk, vide his order dated 9.4.1996, convicted and sentenced Rajaram and Lallu Ram under Section 447 of the Indian Penal Code, whereas Manohar Lal and Ram Pyari were acquitted. By the said order the learned trial Court took cognizance against the petitioner under Section 447 of the I.P.C.

2. The petitioner preferred revision against the said order but the learned Special Judge (Communal Riots Cases) Additional Sessions Judge, Tonk, vide his order dated August 23, 1997, dismissed the revision. Against the findings of the court below the petitioner Panchu Lal has filed this Criminal Misc. Petition, invoking the powers under Section 482 Cr. P.C. of this Court.

3. I bestowed my anxious consideration to the arguments advance by Mr. Narendra Jain, learned Counsel appearing for the petitioner as well as Mr. S.M. Poddar, learned Public Prosecutor for the State and carefully scrutinse the impugned orders. At this juncture it would be useful to incorporate the provisions contained in Section 319(1) of Cr. P.C. which provides that where, in the course of any inquiry, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed. (Emphasis supplied)

4. A cursorary look of the above section demonstrates that cognizance against the petitioner could have been taken only during the trial of the case as is evident from the words 'could be tried together with the accused. But in this case when the trial of the case is over, no cognizance could be taken against the petitioner who was not an accused. Therefore, both the Courts below have not properly appreciated the Provisions contained in Section 319 of the Cr. P.C. and thus committed illegality in taking cognizance against the petitioner.

5. Consequently. I allow this petition and set-aside the impugned order. The cognizance under-Section 447 IPC. which was taken against the petitioner is hereby quashed.

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