
(1950) 09 BOM CK 0014
In the Bombay High Court

Baharta Murtiram

APPELLANT

Vs

L.M. Paranjpe and Others

RESPONDENT

Date of Decision : 25-09-1950

Acts Referred:

Central Provinces and Berar Panchayats Act, 1946 — Section 69, 83

Citation : (1951) CriLJ 308

Hon'ble Judges : R. Kaushalendra Rao, J;Deo, J

Bench : Division Bench

Judgement

1. The applicant is a cultivator of mouza Afrid, in tahsil Janjgir. Upon a complaint of two persons that the applicant was causing his cattle to trespass into the fields of the village, the Gram Panchayat of the village called upon the applicant to explain his conduct. On denial of the facts against him, the Gram Panchayat lodged a complaint against him before the Nyaya Panchayat. The applicant was fined by the Nyaya Panchayat u/s 51, C. P. and Berar Panchayats Act, 1947 (I [I] of 1947).

2. Against the order of the Nyaya Panchayat, the petitioner applied in revision u/s 83, Panchayats Act before the Civil Judge, Class I, empowered u/s 83 and Section 101 of the Panchayats Act. The learned Civil Judge declined to interfere with the order of the Nyaya Panchayat, holding that he had no jurisdiction to entertain the revision. The learned Civil Judge took the view that a proceeding u/s 51 does not amount to a criminal case within the meaning of Section 83.

3. Under Sub-section (3) of Section 83, a Sessions Judge may call for and examine the record of any criminal case before a Nyaya Panchayat within the local limits of his jurisdiction for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed as to the regularity of any proceedings of such Nyaya Panchayat.

4. The learned Additional Government Pleader contended that the extent of the criminal jurisdiction of the Nyaya Panchayat is that defined in Section 69 of the

Act. u/s 69, the Nyaya Panchayat has been empowered to take cognizance of any offence and abetment of, or attempt to commit, any offence specified in the schedule to the Act. The schedule gives a list of offences under the Penal Code and certain other special enactments. We cannot accept the contention that the words "any criminal case" in Sub-section (3) of Section 83 cover only the cases relating to offences mentioned in the Schedule.

5. Section 58 of the Act runs thus:

(1) Subject to rules made under this Act, the Provincial Government shall establish Nyaya Panchayats for the administration of civil and criminal justice in such areas as it may by notification appoint.

Section 51 enacts that any voluntary obstruction to a Gram Panchayat or any Panch or Officer or servant thereof or any person authorised by the Gram Panchayat in the exercise of any power under the Act shall be punishable with fine. Section 55 provides that no punishment for any act or omission made punishable by Section 51, shall be imposed save by a Nyaya Panchayat. In view of the above provisions, when a Nyaya Panchayat punishes an act falling u/s 51, it cannot but be regarded as administering criminal justice. It is dealing with a special offence created by the enactment. That being so, we are satisfied that the expression "any criminal case" in Sub-section (3) of Section 83 is comprehensive enough to include a case in which punishment is imposed by a Nyaya Panchayat for an offence u/s 51.

6. The learned Additional Government Pleader referred to the marginal note to Section 69 as indicative of the fact that the extent of criminal jurisdiction of the Nyaya Panchayat is limited to the offences specified in the schedule. Even if it be permissible to construe a statutory provision by reference to the marginal note, the argument of the learned Additional Government Pleader loses all force on a reference to the marginal note to Section 55 which is "procedure for cognizance of offences." The provisions we have to construe are clear. We do not base our decision on the marginal note to either of the sections.

7. We set aside the order of the learned Judge holding that he had no jurisdiction to entertain the application of the applicant u/s 83. He has jurisdiction to deal with the case and he will now proceed with the case in accordance with law.

8. The learned Additional Government Pleader raised one more point that the Civil Judge, Class I, need not have been made a non-applicant to the case. We accept the contention as the Civil Judge only purported to exercise judicial functions in this case. There will be no order as to costs.