
(1993) 05 AHC CK 0056

In the Allahabad High Court

Case No : Criminal Miscellaneous Case No. 2919 of 1983

Bhavani Prasad and Anr.

APPELLANT

Vs

State & Anr.

RESPONDENT

Date of Decision : 06-05-1993

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1993) 05 AHC CK 0056

Hon'ble Judges : D.K.Trivedi, J

Final Decision : Allowed

Judgement

D. K. Irivedi, J.—The present petition has been filed under Section 482 Cr.P.C. for quashing the order, dated 1371983 and the order dated 1011982 passed by the Judicial Magistrate, Bahraich, as well as Nayaya Panchayat, Kakandhu, district Bahraich contained in Annexures No. 9 and 5 respectively.

2. It appears that a case has been initiated on the basis of an application moved by the opposite party before the Nayaya Panchayat, Kakandhu on 27881. The petitioners on coming to know about this complaint, moved an application for transfer of the case before the Judicial Magistrate, Bahraich on 611982. The Judicial Magistrate, Bahraich, on the same day stayed further proceedings of the Nayaya Panchayat. The petitioners further pointed out that they served a copy of the said order on the Nayaya Panchayat on 711982 but inspite of this the Nayaya Panchayat by its order dated 1011982 convicted the petitioners under Section 448 I.P.C. and awarded the sentence of fine of Rs. 25/ each. The petitioner thereafter moved an application before the Judicial Magistrate, Bahraich foi treating the transfer application as a revision application against the order, dated 1011982 passed by the Nayaya Panchayat but the same was rejected by the Judicial Magistrate, Bahraich. The petitioners thereafter filed a revision before the Judicial Magistrate, Bahraich and pointed out that the order, dated 1011982 has been passed by the Nayaya Panchayat behind the back of the petitioners and they have no knowledge of the same. They further pointed out that on coming to

know of this order they moved an application in the transfer application stating that the same be treated as a revision. The Court did not accept the request of the petitioner and rejected the same, hence the petitioner filed a fresh criminal revision in accordance with the order passed by the Judicial Magistrate, Bahraich on 1681982. The Judicial Magistrate, thereafter dismissed the said revision as timebarred. The petitioner pointed out in the revision itself the petitioner pointed out all these facts and, therefore, the learned Court below should have accepted the same and treated the revision in time. As pointed out above the order passed by the Nayaya Panchayat on 1011982 is, on the face of it, not a legal order because the same has been passed in an arbitrary manner when the proceedings of the case before the Nayaya Panchayat were stayed by the Judicial Magistrate. No doubt, the order passed by the learned Magistrate rejecting the revision as timebarred is not proper but as the impugned order by which the Magistrate dismissed the revision as timebarred is dated 1371983 and, on the face of the matter is a trivial in nature, therefore instead of directing the revisional Court to decide the revision I myself decide this case under Section 482 Cr.PC.

3. It is not disputed that the Nayaya Panchayat passed an order of conviction behind the back of the petitioners and also when the proceedings had already been stayed by the Judicial Magistrate, Bahraich. In these circumstances the order passed by the Nayaya Panchayat dated 1011982 sentencing the petitioners to the fine of Rs. 25/ each on the face of it is illegal. In these circumstances, I quash all the proceedings including the order dated 1011982 passed by the Nayaya Panchayat, Kakandhu, District Bahraich by which the petitioners were convicted under Section 448 I.P.C. and sentenced to Rs. 25/ each. The petition is accordingly allowed.