
(1973) 08 AHC CK 0018
In the Allahabad High Court

Champa	Vs	APPELLANT
The State		RESPONDENT

Date of Decision : 24-08-1973

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 8

Citation : (1974) CriLJ 952

Hon'ble Judges : K.B. Srivastava, J

Bench : Single Bench

Judgement

K.B. Srivastava, J.—The short point of law pressed in this revision is that the trial of the petitioner Champa u/s 8, Suppression of Immoral Traffic in Women and Girls Act. 1956, was illegal inasmuch as the City Magistrate, Faizabad, was not competent to hold the trial within the meaning of Section 22, read with Section 2 (c) of the Act.

2. Section 22 save that no Court inferior to that of a Magistrate, as defined under Clause (c) of Section 2 shall try any offence u/s 8. Cl (c) of Section 2 stipulates that the term "Magistrate" means a District Magistrate, a Sub-Divisional Magistrate a Presidency Magistrate or a Magistrate of the First Class, specially empowered by the State Government by notification in the Official Gazette to exercise jurisdiction under the Act. Readme these two provisions of the law conjointly the jurisdictional position becomes quite apparent, namely, that an offence punishable u/s 8 can be tried only by one of the following Magistrates, that is to say, either by:-- (1) a District Magistrate, or (2) a Sub-Divisional Magistrate, or (3) a Presidency Magistrate or (4) a Magistrate of the First Class who is specially empowered by the State Government, by a notification in the official Gazette. The first three categories of Magistrates have jurisdiction to try such an offence, without any special empowerment, but that is not correct in so far as a Magistrate of the IVth category is concerned because such a Magistrate is inherently incompetent unless he is specially empowered and that also by a notification in the Official Gazette. The trial in the instant case was held before

the City Magistrate Faizabad, and the question. therefore, arises as to whether he is one of the Magistrates of the first three categories: and if not so. was he specially empowered, in the manner referred to above. Home Department notification No. 1968 /VI-581-53. dated September 17. 1953, published in the U. P. Gazette, part I page 1094, dated September 26, 1953 shows that the Governor of Uttar Pradesh, in exercise of his powers u/s 8(1), Code of Criminal Procedure was pleased to create the area covered by the Faizabad cum Ayodhya Municipality and the cantonment as a city sub-division. This sub-division is in the charge of the City Magistrate. Faizabad, and that being so, he functions as a Sub-Divisional Magistrate and was thus, fully competent to hold the trial in question.

3. No other point was argued before me.

4. The result, therefore, is that this revision has no substance and is dismissed. The petitioner shall deposit the fine within a period of one month, unless it has already been deposited: and in case it has not been deposited, and is not deposited now within the period of one-month she shall surrender to serve out the sentence of imprisonment in default.