
(1956) 09 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1029 of 1954

Gurdial Singh

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 17-09-1956

Acts Referred:

Constitution of India, 1950 — Article 22

Criminal Procedure Code, 1898 (CrPC) — Section 245, 340, 50

Citation : AIR 1957 P&H 149 : (1957) CriLJ 796

Hon'ble Judges : Bhandari, C.J.;Khosla, J

Bench : Division Bench

Advocate : K.S. Thapar and H.L. Sarin, for the Appellant; S.M. Sikri, General, for the Respondent

Judgement

Bhandari, C.J.—By this petition u/s 439 of the Code of Criminal Procedure the petitioner challenges the validity of the Punjab Gram Panchayat Act, 1953.

2. One Gurdiai Singh was convicted by a Panchayat u/s 426 of the Penal Code and sentenced to pay a fine of Rs. 40/- only. The convict is dissatisfied with the order and has come to this Court in revision.

3. The validity of the Gram Panchayat Act has been challenged on three grounds. It is stated in the first place that the accused petitioner was not allowed to be defended by a counsel of his own choice. This objection has been answered by their Lordships of the Supreme Court in State of Punjab V. Ajaib Singh AIR 1053 SC 10 (A) in which it was held that the language of Article 22 (1) and (2) indicates that the fundamental right conferred by it gives protection against such arrests as are affected otherwise than under a warrant issued by a Court on the allegation or accusation that the arrested person has, or is suspected to have committed, or is about or likely to commit an act of a criminal or quasi-criminal nature or some activity prejudicial to the public or the State interest. In other words, there is indication in the language of Article 22 that it was designed to give protection against the act of the executive or other non-judicial authority.

4. The second objection is that although the Constitution has enacted specific provisions in re-gard to the appointment of subordinate judiciary, the Act of 1953 has sanctioned the appointment of an elective judiciary and has thereby contravened the provisions of the Constitution. This objection too appears to me to be whole devoid of force. It is true that the method of the recruitment of Judicial officers like Judges of the Supreme Court, Judges of High Courts and District and Subordinate Judges has been set out in the appropriate Articles of the Constitution, but items 3 and 5 of List II.

State Legislative List confers ample power on the State Legislature to provide for administration of justice, constitution and organisation of Courts and the constitution of local authorities for purposes of local self-government or village administration. The mere fact therefore that the Act of 1953 does not lay down any criteria for determining the qualifications of Panchas who are later to exercise judicial functions would not in my opinion contravene the provisions of the Constitution.

5. The third objection is that by setting up these Panchayats the State Legislature has deliberately violated the provisions of Article 50 of the Constitution which declared that the State shall take steps to separate the judiciary from the executive in the public services of the State. It is contended that the State Legislature has not complied with the directive principle embodied in this Article and has, on the other hand, endeavoured to merge judicial and executive functions by the constitution of Panchayats. The objection too appears to me to be untenable as Article 50 must be deemed to be a directory and not a mandatory provision.

6. For these reasons I am of the opinion that there is no substance in the objections which have been taken. I can see no reason for declaring the Act of 1953 to be "ultra vires" the Constitution. This petition and similar other petitions must, in my opinion, be sent back to the learned Single Judge for disposal in accordance with law.

Khosla, J.

7. I agree.