
(1994) 09 AHC CK 0090

In the Allahabad High Court

Case No : Criminal Appeal No"s. 361 to 396 of 1994

Provident Fund Inspector

APPELLANT

Vs

Sitapur Plywood Manufacturers Ltd. and Others

RESPONDENT

Date of Decision : 08-09-1994

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 24, 377, 377(2)
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14(1)

Citation : (1994) 18 ACR 723

Hon'ble Judges : Virendra Saran, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Virendra Saran, J.—These are 37 Criminal appeals filed by the Provident Fund Inspector, Sitapur. The point involved in all these appeals is the same. I propose to dispose them of by this common judgment.

2. The appeals have been filed beyond the period of prescribed limitation and application for condonation of delay have been filed. A supplementary affidavit has also been filed today which may be placed on record.

3. It appears that on a complaint filed by the Provident Fund Inspector, Sitapur, the Respondents were convicted by the learned Chief Judicial Magistrate, Sitapur u/s 14(1)(b) read with Section 14 of the Employees' Provident Fund and Miscellaneous Provisions Act and sentenced them to a fine of Rs. 100 each. The Provident Fund Inspector, Sitapur has filed these appeals on the ground of inadequacy of sentence.

4. I have heard Sri J.N. Tiwari, learned Senior Counsel and Sri Rakesh Sharma appearing on behalf of the Appellants and I am of the view that these appeals are not maintainable. Section 377, Code of Criminal Procedure states:

Section 377. (1) Save as otherwise provided in Sub-section (2) the State Government may, in any of the conviction on a trial held by any Court other than

a High Court, direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of inadequacy.

(2) If such conviction is in a case in which the offence has been investigated by the Delhi Special Police Establishment, constituted under the Delhi Special Establishment Act, 1946 (25 of 1946) or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of inadequacy.

(3)...

5. In the present case, neither the State Government nor the Central Government has directed the Public Prosecutor to present an appeal to the High Court on the ground of inadequacy of sentence. Moreover, the Instant case is not a case which was either investigated by the Delhi Police Establishment or by any other agency empowered to make an Investigation under any Central Act other than the Code of Criminal Procedure. Thus, the appeals are incompetent and are not maintainable u/s 377 Code of Criminal Procedure.

6. Sri J.N. Tiwari, learned Senior Counsel has contended that there can always be a Special Public Prosecutor who may present an appeal. The contention of Sri J.N. Tiwari needs rejection, though ingenious. A Public Prosecutor is to be appointed u/s 24 of the Code of Criminal Procedure. A Counsel may be a Standing Counsel for the Central Government, but he does not become, unless so appointed, a Public Prosecutor within the meaning of Section 24. Code of Criminal Procedure In view of the above, the inevitable conclusion is that these appeals are not competent.

7. Lastly, Sri J.N. Tiwari submitted that even now the Central Government can instruct the Public Prosecutor to file an appeal. By this judgment, I am not shutting out the Central Government to approach this Court by way of filing an appeal but its maintainability would again bear a question mark.

8. The appeals are hereby dismissed.