

(1965) 02 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 881 of 1964

Ram Sarup Daya Sukh

APPELLANT

Vs

The State and Another

RESPONDENT

Date of Decision : 10-02-1965

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1898 (CrPC) — Section 480
Penal Code, 1860 (IPC) — Section 228

Citation : AIR 1965 P&H 454 : (1965) CriLJ 669 : (1965) 2 ILR (P&H) 309

Hon'ble Judges : P.D. Sharma, J

Bench : Single Bench

Judgement

(1) The present petition under Article 227 of the Constitution has arisen out of the following circumstances:

(2) Shri B. D. Dhawan, Settlement Officer, Rohtak, convicted Ram Sarup petitioner on 16th November, 1963, under S. 228 of the Indian Penal Code in the exercise of jurisdiction under S. 480 of the Code of Criminal Procedure and sentenced him to pay a fine of Rs. 200/- or in default to undergo simple imprisonment for one month. Annexure A is a copy of this order. Although Shri B. D. Dhawan has signed the order as Settlement Officer, Rohtak, but in the opening part thereof he has described his Court as "In the Court of Shri B. D. Dhawan P. C. S., Magistrate First Class, Rohtak". Ram Sarup felt aggrieved from the above order and preferred an appeal in the Court of the learned Sessions Judge of Rohtak which was dismissed by him on the ground that appeals from the decrees or orders passed by the Settlement Officer Consolidation of Holdings, did not lie to his Court. The petitioner in his present petition has alleged that Shri B. D. Dhawan, while acting as Settlement Officer under the provisions of the East Punjab holdings (Consolidation and Prevention of Fragmentation) Act, 1948, was neither Civil nor Criminal or Revenue Court and as such was not competent to exercise the powers vested in such Court under S. 480 of the Code of Criminal Procedure. In the circumstances he was not competent to punish him under S.

228 of the Indian Penal Code while acting under S. 480 of the Code of Criminal Procedure. He also controverted the allegations which according to Shri B. D. Dhawan constituted an offence punishable under S. 228 of the Indian Penal Code and added that proper procedure was not followed in the matter.

(3) Shri B. D. Dhawan respondent No. 2 pleaded that even if it was found that the Settlement Officer was not a Court then also he was a public servant of a Revenue Officer acting in judicial capacity and so in the wider sense of the term was a Revenue C. He also contended that an appeal against the impugned order lay before the Assistant Director, Consolidation of Land Holdings, and so the petitioner could not have come to this Court under Art. 227 of the constitution before filing the appeal. He finally urged that all the ingredients which go to constitute an offence punishable under S. 228 of the Indian Penal Code had been proved against the petitioner and that the requisite procedure was followed by him in convicting the petitioner as he did.

(4) A Settlement Officer appointed under the provisions of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, cannot be called a Civil, Criminal or Revenue Court for obvious reasons because the functions discharged by him do not fall within the ambit of the Civil, Criminal Revenue Court as defined in the Code of Civil Procedure, Punjab Courts Act, Code of Criminal Procedure, the Punjab Land Revenue Act, and the Punjab Tenancy Act. Shri B. D., Dhawan as Settlement Officer could have convicted the petitioner under S. 228 of the Indian Penal Code in the exercise of powers conferred by S. 228 of the Indian Penal Code in the exercise of powers conferred by S. 480 of the Code of Criminal Procedure if he had been a Civil, Criminal or Revenue Court. Therefore, the impugned order was passed obey him without any jurisdiction and as such has to be quashed.

(5) In the result, the petition under Art. 227 of the Constitution is allowed and the order of Shri B. D. Dhawan, Settlement Officer, respondent convicting the petitioner under S. 228 of the Indian Penal Code and sentencing him to pay a fine of Rs. 200/- is quashed. The amount of fine, if paid should be refunded.

(6) Petition allowed.