
(2017) 07 GAU CK 0001
In the Gauhati High Court
Case No : 9 of 2017

Toulazouma Village Council

APPELLANT

Vs

Traonu Poumai

RESPONDENT

Date of Decision : 04-07-2017

Acts Referred:

Constitution of India, Article 21, Article 227 -
Nagaland Village and Area Councils Act, 1979, Section 22 -
Rules for Administration of Justice and Police in Nagaland, 1937, R

Citation : (2017) 07 GAU CK 0001

Hon'ble Judges : S. Serto

Bench : SINGLE BENCH

Final Decision : Dismissed

Judgement

1. This is a civil revision application filed under Rule 32 of the Rules for Administration of Justice and Police in Nagaland, 1937 (amended upto date) read with Article 227 of the Constitution of India directed against the order dated 28/4/2016 passed by the Court of DBs under the circle of EAC Chumukedima in POL/CASE No.5-2016-17, and the order dated 10/8/2016 passed by the Deputy Commissioner, Dimapur in No.GEN-10/JUD/2016- D/4453. Heard Mr. P.B Paul, learned counsel for the petitioner and also heard Mr. C.T. Jamir, learned senior counsel for the respondent.

2. The genesis of the dispute between the 2 parties which led to the filing of this revision application is briefly stated as follows:- In the month of April 2011, one Mr. Aliba Sangtam committed an attempted rape against a girl in the residential compound of the respondent situated at Toulazouma village in Dimapur district, and following the incident, the village council of Toulazouma village cancelled the land permit of the respondent as per the resolution No.2 of the village council's resolution passed on 24/11/2001. Being aggrieved, the respondent approached the office of the EAC Chumukedima on appeal against the order cancelling his land permit. The EAC Chumukedima endorsed the case to the court of the DB,

Chumukedima for deciding the appeal. The Court of DB Chumukedima registered the case as POL/CASE No.5-2016-17 and disposed of the same on 28/4/2016-17 setting aside and quashing the cancellation order passed by the village council of Toulazouma village on the ground that the village council have acted beyond Government rules. Being aggrieved, the petitioner approached the Deputy Commissioner, Dimapur on appeal under Rule 29 of the Rules of Administration of Justice and Police in Nagaland, 1937 (amended upto date). The Deputy Commissioner Dimapur registered the appeal as No.GEN-10/JUD/2016-D/4453 and disposed the same by his order dated 10/8/2016. In that order the Deputy Commissioner dismissed the appeal of the petitioner and upheld the order passed by the DB's Court Chumukedima. The petitioner, being aggrieved, has come to this High Court by filing the revision application challenging both the impugned orders dated 28/4/2016 passed in No. POL/CASE No.5-2016-17 and the order dated 10/8/2016 passed in No GEN-10/JUD/2016-D/4453 by the Court of DB's Chumukedima and Deputy Commissioner Dimapur respectively.

3. Mr. P.B. Paul, learned counsel for the petitioner submitted that the Court of DB, Chumukedima did not have jurisdiction to sit on appeal against the order of Village Council of Toulazouma village because as per section 22 of Nagaland Village and Area Council Act only the Deputy Commissioner, ADC and Assistant to Deputy Commissioner have the jurisdiction to sit on appeal against orders passed by the village councils. He further submitted that when this question of jurisdiction was brought to the notice of the Deputy Commissioner on appeal, the Deputy Commissioner did not consider the same and thereby passed the impugned order dated 10/8/2016. Therefore, both the impugned orders are illegal and deserves to be quashed and set aside. On the other hand Mr. C.T. Jamir, learned senior counsel for the respondent submitted that it is true that the Court of DB has no original jurisdiction to try cases but when endorsed by the Deputy Commissioner or ADC or his assistant, the court of DB has to assume jurisdiction to try such cases. On this point the learned senior counsel referred to Rule 23(a) of Rules for Administration of justice and Police in Nagaland 1937 (as amended upto dated). The learned counsel further submitted that in this case, the EAC Chumukedima had endorsed the appeal of the respondent to the Court of DB, Chumukedima, therefore, the Court of DB Chumukedima had rightly assumed jurisdiction and disposed the appeal. As such, there is no question of the Court of DB, Chumukedima having exceeded its jurisdiction. The learned counsel also submitted that since the Court of DB, Chumukedima had rightly assumed the jurisdiction, the Deputy Commissioner did not commit any error in law in having upheld the decision of the Court of DB, Chumukedima.

4. Mr. C.T. Jamir, learned senior counsel also submitted that the resolution No.2 of the village council states that if anyone commits sexual abuse/rape/molestation on women, his land patta shall be cancelled. But in this case, the respondent did not commit such offence rather it was somebody unknown to him who committed the same, that too, when he was not at home, therefore, he cannot be punished under such resolution.

5. I have considered the facts and circumstances of the case and the provisions of law submitted by both the learned counsels. Section 22 of the Nagaland Village Area Council Act 1978 reads as follows:-

"22. Subject to General superintendence of the State Government/the Deputy Commissioner/the Additional Deputy Commissioner or Sub-Divisional Officer(Civil) in-charge of the Sub-Division, Extra Assistant Commissioner or Circle Officer shall have control over all the village Councils within his jurisdiction."

-A N D- Rule 23 A of the Rules for Administration of Justice and Police in Nagaland,1937 (as amended upto date) reads as follows:-

"23A. The Dobhasis hence forth shall try and decide such civil cases only as may be referred to them by the Deputy Commissioner or Additional Deputy Commissioner or Assistant to the Deputy Commissioner as the case may be." A conjoint reading of the two provisions of law given above, which are in practice in the State of Nagaland would show that decisions of Village Councils are appealable before the Deputy Commissioner, Additional Deputy Commissioner or Sub-Divisional Officer (Civil) in charge of Sub-Division, EAC or Circle Officer however, the Court of DB will also have jurisdiction to try such cases if the Deputy Commissioner or Additional Deputy Commissioner or Assistant to Deputy Commissioner as the case may be refers or endorses the same.

Admittedly, the case of the parties was referred to the Court of DB, Chumukedima by the EAC Chumukedima who is Assistant to Deputy Commissioner, Dimapur. As such, the Court of DB, Chumukedima did not commit any error of law in having assumed the appellate jurisdiction over the decision of the Village Council of Toulazouma village and at the same time having disposed the appeal as it did.

6. Now coming to the resolution of the Toulazouma village council under which the land permit of the respondent was cancelled, it would be pertinent to reproduce the relevant portion of the same. "OFFICE OF THE TOULAZOUMA VILLAGE COUNCIL

DIMAPUR NAGALAND 2. If anyone commits sexual abuse/Rape/molestation on women his land patta shall be cancelled.

Sd- Sd/-

Kekhulhoubi Naga Lhousezo Soukhrie

Chairman, jt. Secretary

Toulazouma Village Council Toulazouma Village Council"

A plain reading of the resolution of Toulazouma Village Council given above shows clearly that it is only the Patta of the land of the person who committed sexual abuse/rape/molestation on women which has to be cancelled. This

resolution does not include cancellation of the Patta of any other person than the one who committed such crime. In this case, admittedly, the respondent was neither the one who committed nor abated the crime. Therefore, the respondent does not in any way come under the resolution of the village council. On that ground alone, the case of the revisionist against the respondent is not maintainable. Therefore, the Court of DB, Chumukedima and the Deputy Commissioner, Dimapur did not commit any error of law in having set aside and quashed the order of the Village Council of Toulazouma Village. Further, it is doubtful if such resolution of a village council can be imposed against a villager under the law of the land, because, there are laws under which a person involved in such case can be tried and punished. Moreover, such resolutions and their implementation may also attract the provisions of the Article 21 of the Constitution of India. In view of the above stated reasons and observations the revision petition is dismissed.