

Union of India

Vs

Ranjit Thakur

Review Petition No. 43 of 1988

(A. P. Sen, M. N. Venkatachaliah JJ)

10.08.1988

ORDER

1. In the appellate judgment dated October 15, 1987 (Ranjit Thakur v. Union of India, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113) this Court, the contention of the appellant therein noticed and dealt with as contention a(i) proceeds on the premise the Section 130 of the Indian Army Act, 1950 (Act) stood attracted to the proceedings of the court-material which culminated in the imposition of the penalty on the appellant. There is, however, an obvious error in this assumption as to the nature of the proceedings of the court-material in this case. Section 130 of the 'Act' would be attracted, inter alia, if the court-material was a Summary General Court-Material.

2. It is pointed out in this review petition by the Union of India, and in our opinion quite rightly, that the court-material in question was not a "Summary General Court Martial" to which Section 130 would be so attracted, but was only a "Summary Court Material" to which by virtue of Section 116(1) of the Act, the applicability of section 130 is clearly excluded. This position requires to be clarified and the judgment dated October 15, 1987 corrected accordingly. The need for this correction was also indicated in our order dated January 20, 1988 (Union of India v. Ranjit Thakur, 1988 Supp SCC 525 : 1988 SCC (Cri) 915). However, the principles enunciated would apply to a "Summary General Court Martial." But it is not disputed that the court-martial in this case was a "Summary Court Martial" the constitution of which was regulated by Section 116(1) of the Act.

3. The purpose of the review petition would be served if the contention at point a(i) as also the finding on that point in the judgment dated October 15, 1987 is deleted. They are accordingly, deleted. But, this will not make any difference to the operative part of the judgment. All the other findings, including the quashing of the penalty imposed, would remain undistributed.

4. The review petition is disposed of accordingly.

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