

SUPREME COURT OF INDIA

State of Punjab

Vs.

Harbhajan Singh

Crl.A.No. of 2004

(Y. K. Sabharwal and A. S. Lakshmanan JJ.)

05.01.2004

ORDER

1. Leave granted.

2. F.I.R.No.23 dated 28th May, 2000 was registered at Police Station Rahon, District Nawanshahr against the respondent under Section 13A of the Punjab Village Common Lands (Regulations) Act, 1961. The allegations against the respondent are that he is in unlawful possession of 4 Kanal land since 6 years. Despite repeated requests, the respondent has not delivered possession of the land to the Panchayat. On investigation, challan was put by the police before the Court on 18th August, 2000. The case was pending in the Court of Judicial Magistrate Ist Class, Nawanshahr. At this stage a petition under Section 482 of Code of Criminal Procedure was filed by the respondent in the High Court seeking quashing of the F.I.R. and the subsequent proceedings arising therefrom. The High Court, by the impugned judgment, while observing that the criminal proceedings may be maintainable, has directed the criminal proceedings to be kept in abeyance till Panchayat is able to establish that the respondent was in illegal possession of the land in question, in appropriate proceedings.

3. Section 13A reads as under:

"13-A. Penalties and procedure -(1) No person shall, unless entitled or authorised so to do by law, or by an instrument or an order executed or issued by a competent authority under law, enter into the possession of any land vested or deemed to have been vested in a Panchayat under this Act, or having lawfully entered into possession of such land, unlawfully remain in possession thereof on or after the expiry of the term of such lawful possession, if any.

(2) Any person who contravenes the provisions of sub-section (1) shall notwithstanding anything contained in any other law, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees, or with both.

(3) Any person who abets an offence punishable under this Act shall be punishable with the punishment provided for the offence.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence under this Act shall be cognizable."

4. No reasons have been given in the impugned order for keeping the criminal proceedings in abeyance. It is evident that on investigation being complete, the challan was filed in Court. There have to be strong reasons either to quash the criminal proceedings or to direct the same to be kept in abeyance. The direction that the Panchayat shall establish that the respondent was in illegal possession, in some other proceedings, and till then to keep the criminal proceedings in abeyance would make the provisions of Section 13A wholly nugatory.

5. We may note that despite grant of opportunity, the respondent has not filed counter affidavit. It was, however, sought to be contended by learned counsel for the respondent that the respondent was in lawful possession of the land in question. That may be a matter of defence for the respondent before the criminal court. We express no opinion on merits. It is evident that the impugned order has been passed without any legal ground. It is clearly unsustainable.

6. For the aforesaid reasons, we set aside the impugned order of the High Court and direct that the criminal proceedings shall proceed in accordance with law. The appeal is allowed in these terms.