

(1953) 07 AHC CK 0009**Allahabad High Court****Case No:** Criminal Misc. Writ No. 74 of 1953

Rafiq Khan and Another

APPELLANT

Vs

State of Uttar Pradesh and
Another

RESPONDENT

Date of Decision: July 8, 1953**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Uttar Pradesh Panchayat Raj Act, 1947 - Section 85

Citation: AIR 1954 All 3 : (1953) 23 AWR 402**Hon'ble Judges:** Asthana, J**Bench:** Single Bench**Advocate:** S.C. Khare, for the Appellant; Aqiq Hasan, for the Respondent**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

Asthana, J.

The applicants, Rafiq and Shafiq along with one Abdul Haftz Khan, were tried by the Panchayati Adalat of Raghunathpur under Sections 352, 447 and 426, I. P. C. They all were convicted under each of these sections and were sentenced to fine. Against this order a revision was filed before the Sub-Divisional Magistrate of Puranpur u/s 85, Panchayat Raj Act. The learned Sub-Divisional Magistrate quashed the conviction of one of them, namely, Abdul Hafiz Khan and in respect of the other two accused, namely, Rafiq Khan and Shafiq Khan he maintained their conviction u/s 447, I. P. C. but quashed their conviction and sentence under the other two sections. The present application has been made by Rafiq and Shafiq for a writ of certiorari quashing the order of the Sub-Divisional Magistrate on the ground that it was against the provisions of Section 85, Panchayat Raj Act. This section provides that a Sub-Divisional Magistrate may for reasons to be recorded in writing either cancel

the jurisdiction of the Panchayati Adalat with regard to any suit, case or proceeding, or quash any decree or order passed by the Panchayati Adalat at any stage.

2. It has been argued on behalf of the applicants that the learned Sub-Divisional Magistrate had no jurisdiction to modify the order passed by the Panchayati Adalat. He could either quash the entire order or he could cancel the jurisdiction of the Panchayati Adalat. In support of his contention he has relied on -- "[Raghunandan Singh and Others Vs. State](#), It was held in this case that the order passed by a Panchayati Adalat could not be interfered with in any other manner except as provided in Section 85.

3. In this case the Panchayati Adalat had convicted the applicants and two other persons for offences u/s 24, Cattle Trespass Act and Section 323, Penal Code and had fined each of them Rs. 20/- for both the offences. A revision was filed before the Sub-Divisional Magistrate, and he acquitted two of the convicted persons and reduced the fine of the other three who had made the application. The order passed by the Sub-Divisional Magistrate modifying the decision of the Panchayati Adalat was held to be in contravention of Section 85 and was quashed in the aforesaid decision.

4. I am, therefore, of the opinion that the order of the learned Sub-Divisional Magistrate dated 20-12-1952 should be quashed, as it is against the provisions of Section 85, Panchayat Rai Act. It is accordingly quashed and" the learned Magistrate is directed to decide the case according to law.