
(1942) 04 AHC CK 0013

Allahabad High Court

Case No: Criminal Revision No. 1115 of 1941

Gorakh Prasad and others

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: April 2, 1942

Hon'ble Judges: Ganga Nath, J

Bench: Single Bench

Advocate: K.N. Gupta s, for the Appellant; Sankar Saran (Deputy Government Advocate) for Crown, for the Respondent

Final Decision: Dismissed

Judgement

Ganga Nath, J.

This is an application in revision against the order of the learned Sessions Judge, dismissing the Applicant's appeal on the ground that no appeal lay to him.

2. The Applicants were convicted under Sections 426 and 506, I.P.C. and each of them was fined Rs. 5 under each section.

3. It was contended on behalf of the Applicants that u/s 415, Code of Criminal Procedure an appeal lay to the learned Sessions Judge. Section 415, Code of Criminal Procedure lays down:

An appeal may be brought against any sentence referred to in Section 413 or Section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

4. In Section 413, Code of Criminal Procedure two punishments, one of fine and the other of imprisonment, have been mentioned. In Section 414, Code of Criminal Procedure there is a mention of only one punishment of fine. If the words of Section 415, Code of Criminal Procedure were to be construed literally, there would be some

difficulty in applying them to Section 414, Code of Criminal Procedure as in Section 414 only one kind of punishment has been mentioned. Similarly, there would be difficulty in interpreting the phrase "any two or more of the punishments therein mentioned" as there is not mention of any third punishment in either of these sections.

5. Sections 413 and 414 were amended in 1923. The ambiguity, if there is any, in Section 414 is due to the fact that at the time of amending Sections 413 and 414 no one thought of making a corresponding amendment in Section 415. Before the amendment, there were three kinds of punishments, provided in Sections 413 and 414, viz., in Section 413 a sentence of imprisonment not exceeding one month only, fine not exceeding Rs. 50 only or whipping only and in Section 414 a sentence of imprisonment not exceeding three months only, fine not exceeding Rs. 200 only or whipping only. The phrase "any two or more of the punishments therein mentioned" in Section 415 referred to sentences in which two or more different kinds of punishments referred to in Sections 413 and 414 were combined. After the amendment in Sections 413 and 414 introduced in 1923 it is not possible to attribute any real meaning to the phrase "any two or more of the punishments therein mentioned" in Section 415 so far as it relates, at any rate, to Section 414. Keeping in view the history of Sections 413 and 414 as they originally stood before the amendment made in them in 1923, it becomes plain that the phrase "any two or more of the punishments therein mentioned" in Section 415 referred to two or more of the punishments of different kinds. Section 415 has no application in a case in which two non-appealable sentences of fine have been parsed and the aggregate of fine does not exceed Rs. 50. The decision of the learned Sessions Judge is perfectly correct. There is no reason for interference. The application is rejected.