

Harbans Singh v. State of Punjab etc. (Tewatia, J.)

made to suffer a disqualification and the consequential finding of the competent authority that has, therefore, to follow is that the respondent stands fully exonerated from any liability and that his suspension was wholly unjustified. There is no other way of reconciling the provisions of rule 2044 of the Railway Establishment Code with the mandatory provisions of section 12 of the Probation of Offenders Act, 1958.

(7) The revision petition is accordingly dismissed with costs.

B. S. G.

REVISIONAL CRIMINAL

Before D. S. Tewatia, J.

HARBANS SINGH,—Petitioner.

versus.

STATE OF PUNJAB ETC.,—Respondents.

Criminal Revision No. 62-M of 1970.

September 29, 1971.

Punjab Cooperative Societies Act (No. XXV of 1961)—Sections 55 and 82—Dispute arising in terms of Section 55 referred to arbitration—Such dispute also giving rise to criminal liability—Jurisdiction of criminal Courts—Whether barred to entertain proceedings with regard to the dispute.

Held, that clause (c) of sub-section (1) of Section 82 of the Punjab Cooperative Societies Act, 1961 clearly shows that it envisages the barring of the jurisdiction only of the civil and revenue Courts with regard to disputes which are required to be referred for the arbitration of the Registrar of the Cooperative Societies. If Section 55 of the Act had barred the jurisdiction of the criminal Courts also, there was no necessity to specifically provide in clear and unambiguous terms under Section 82 of the Act that only the jurisdiction of the revenue and civil Courts will be barred with regard to those very disputes. Various provisions of a statute have to be so interpreted by the Courts as to give effect to all the provisions thereof. The use of the word 'suit' by the legislature in the relevant portion of Section 55 is significant and the subsequent words 'or other proceeding' have to take their colour from the word 'suit'. This indicates that the legislature did not intend to extend the injunction to criminal Courts against

entertaining the proceedings in respect of the disputes contemplated by that section. Where an action gives rise to both the criminal and civil liabilities, it is the dispute pertaining to the civil liability that is made referable to the arbitration of the Registrar under Section 55 and it is with regard to such a dispute that the jurisdiction of the Courts, i.e., only of the revenue and civil Courts, stands barred. Hence where a dispute arising in terms of section 55 of the Act, also gives rise to a criminal liability and such a dispute is referred to the arbitrator, the jurisdiction of the criminal Court to entertain proceedings regarding criminal liability arising out of such a dispute is not barred.

Petition under section 561-A of the Code of Criminal Procedure praying that the proceedings pending in the Court of Shri M. L. Singla, Magistrate 1st Class, Fazilka against the petitioner on the basis of F.I.R. No. 64, dated 1st September, 1970 of City Police Station Fazilka under section 409/466 I.P.C. be quashed and further praying that the proceedings in the trial Court be stayed till the decision of the above noted revision petition.

K. S. Kwatra, Advocate, for the petitioner.

M. R. Sharma, Deputy Advocate-General (Punjab), for respondent No. 1

R. C. Dogra, Advocate, for respondent No. 2.

ORDER

TEWATIA, J.—(1) The proposition of law which arises for consideration from the present petition under section 561-A, Criminal Procedure Code, is that when a dispute arising in terms of section 55 of the Punjab Co-operative Societies Act, 1961. (Punjab Act 25 of 1961), hereinafter referred to as the Act, also gave rise to criminal liability and where such a dispute is referred to the arbitrator in terms of the abovesaid provisions, then whether in regard to such a dispute the jurisdiction of the criminal Court is barred.

(2) The facts necessary for the appreciation of the abovesaid proposition, and which stand admitted on all hands, are that the petitioner was Manager of the Fazilka Co-operative Marketing Society Limited from 13th April, 1959 to 8th April, 1970, when the said Society terminated his services and on 23rd June, 1970 passed a resolution, annexure 'B' to the petition, to the effect that the dispute between Harbans Singh (petitioner before me) and the said Society relating to the payment of Rs. 43,161.07 p. as the embezzled

amount and Rs. 24,353.42 p. as the loan amount be referred to the arbitrator. After the matter was so referred to the arbitrator by the Society, in pursuance of the said resolution, the Registrar on 19th August, 1970, wrote three separate letters to the Superintendent of Police, Ferozepore, pertaining to three amounts of Rs. 10,000, Rs. 4,000 and Rs. 2,000.36 p. embezzled by the petitioner and desired therein the Superintendent of Police to register a case under sections 409 and 466, Indian Penal Code, against the abovesaid Harbans Singh. In pursuance of the aforesaid letters, on 1st September, 1970, F.I.R. No. 64 was recorded and a case under the above-mentioned sections of the Indian Penal Code was registered in Police Station, Fazilka City. On 28th September, 1970, the petitioner presented the present petition under section 561-A of the Criminal Procedure Code, challenging the competency of the police to register and investigate the case in question.

(3) Since the proceedings were not stayed by this Court, the investigation concluded and the challan pertaining to the abovesaid case was put in the Court of Shri Singla, Judicial Magistrate, First Class, Fazilka, which led the petitioner to amend his petition by way of inclusion therein of an additional prayer for the quashing of the proceedings pending before the said Magistrate.

(4) Mr. K. S. Kwatra, learned counsel for the petitioner, has contended that a dispute pertaining to the embezzlement of the funds of a Co-operative Society by its employees falls within the category of disputes which sub-section (1) of section 55 of the Act makes it obligatory to be referred to the arbitration of the Registrar of the Co-operative Societies. Having so pin-pointed the nature of the dispute, the counsel then argued that sub-section (1) of section 55 of the Act precludes every Court to entertain any suit or other proceedings in regard to such a dispute. In support of his submission that the dispute in question is the kind of dispute which is being made referable to the Registrar of the Co-operative Societies, the learned counsel placed reliance on a Single Bench decision of this Court reported in *Vidhya Dhar Sharma v. The President's Press* (1).

(5) However, it is unnecessary to analyse the nature of the dispute in question, as Mr. M. R. Sharma, learned counsel appearing

(1) 1965 P.L.R. 566.

for the respondents, has frankly conceded that the dispute pertaining to the embezzlement of the funds of a Co-operative Society by its employees does fall within the kind of disputes envisaged in sub-section (1) of section 55 of the Act. However, Mr. Sharma disputes the proposition that section 55 of the Act bars the jurisdiction of the criminal Court to take cognizance of an offence of embezzlement given rise to by the defalcatory act of the petitioner for which act he also happened to be accountable to the Registrar to make good the loss to the Society resulting from his said act of embezzlement. Mr. Sharma has urged that the action of the petitioner in defalcating the funds of the Co-operative Society in question gave rise to two disputes, one between him and the said Co-operative Society with regard to his liability to pay the amount so defalcated by him, and the other between him and the State involving his liability for punishment for his action. It has been further urged that the dispute that is made referable under section 55 of the Act to the Registrar for his arbitration is the one relating to the petitioner's accountability for the money embezzled by him and, argues the learned counsel for the respondents, that it is with regard to this dispute that the jurisdiction of the criminal Court is barred.

(6) It may be stated here that the learned counsel on both sides have frankly admitted that their research has not revealed to them any reported or unreported decision having any bearing on the proposition placed before this Court for consideration.

(7) I have heard the learned counsel on both the sides. In my view, the contention advanced by Mr. Sharma merits consideration, because if the action of the petitioner giving rise to civil and criminal liability is jointly held to constitute the dispute, then on the language of the injunction incorporated in section 55 of the Act against the Courts entertaining any suit or proceedings in respect to such a suit would completely bar the launching of the criminal proceedings against such a person both before such a dispute is referred to the Registrar during as also after the conclusion of the said arbitration proceedings, which consequence, in my view, could not have been contemplated by the legislature in enacting the aforesaid provision and so the contention advanced by Mr. Sharma that only with regard to the dispute to which the petitioner and the said Society are parties, the jurisdiction of the Courts to entertain any suit or

other proceedings stands barred, makes sense. That, in fact, this was the intention of the legislature when incorporating the said prohibition in section 55 of the Act is made evident by a perusal of the provisions of section 82 which is incorporated in the Act with a specific aim to bar the jurisdiction of the Courts. It reads thus:—

- “82. (1) Save as provided in this Act, no civil or revenue Court shall have any jurisdiction in respect of—
- (a) the registration of a co-operative society or its bye-laws or of an amendment of a bye-law;
 - (b) the removal of a committee;
 - (c) any dispute required under section 55 to be referred to the Registrar; and
 - (d) any matter concerning the winding up and the dissolution of a co-operative society.
- (2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.
- (3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any Court on any ground whatsoever.”

(8) A perusal of sub-section (1), clause (c), above quoted, clearly shows that it envisages the barring of the jurisdiction only of the civil and revenue Courts with regard to disputes which are required under section 55 of the Act to be referred to the Registrar of the Co-operative Societies. If, as Mr. Kwatra pressed before me, section 55 of the Act had barred the jurisdiction of the Courts, including the criminal Courts, then there was no necessity to specifically provide in clear and unambiguous terms, under section 82 of the Act, with regard to those very disputes, that only the jurisdiction of the revenue and civil Courts will be barred.

(9) If the provisions of section 55 of the Act in regard to the barring of the jurisdiction of the Court in respect of the disputes arising in terms thereof is to be read in the manner suggested by

Mr. Kwatra, then a conflict immediately arises between this provision and the provisions of section 82 of the Act, where, as already noticed, with regard to similar disputes, this section bars the jurisdiction of only that of revenue and civil Courts. It is well-known principle of interpretation of the statutes that the legislature knows its job and while enacting various provisions in a statute it must be presumed that it intended to give effect to its various provisions and that it could not have been the intention of the legislature to render any of the provisions of a statute redundant by incorporating in the later part of it an overriding and conflicting provision. Hence, the various provisions of the statute have to be so interpreted by the Courts, if possible, as to give effect to all the provisions incorporated in the statute. If while interpreting the said provisions two views can be taken, then the view which helps in giving effect to both the apparently conflicting provisions of the statute and helps in resolving the apparent conflict, ought to be accepted in preference to the other view.

(10) In the relevant portion of section 55 of the Act, the use of the word 'suit' by the legislature is significant and the subsequent words 'or other proceeding' have to take its colour from the said word 'suit', otherwise, if the intention of the legislature was to bar the criminal Courts to entertain the criminal proceedings in question, then the legislature would have used the following clear phraseology, i.e., that 'no Court shall have jurisdiction to entertain any proceedings in respect of such dispute.....'. Hence, by the use of the words 'or other proceeding' after the word 'suit', the legislature did not intend to extend the injunction to criminal Courts against entertaining the proceedings in respect of the disputes of the kind as urged by the learned counsel for the petitioner. In my opinion, the words 'or other proceedings' are merely supplemental to the word 'suit' and have been intended to convey that not only the 'suit', which has a specific connotation, but even 'other proceeding' will not be entertainable by any Court which is competent to entertain a suit. Hence, the view that where an action gives rise to both the criminal and civil liabilities, then it is the dispute between such an employee and the Society pertaining to its civil liability that is made referable under section 55 of the Act to the arbitration of the Registrar and it is with regard to such a dispute that the jurisdiction of the Courts, which in terms, as already pointed out, obviously include only the

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revenue and civil Courts, stands barred, commends to me, as it would enable to give effect simultaneously to both the provisions of sections 55 and 82 of the Act. In this view of the matter, I hold that the Registrar of the Co-operative Societies was competent to initiate the criminal proceedings against the petitioner with regard to the offence of embezzlement and the criminal Court was competent to entertain criminal proceedings regarding the said offence against the petitioner.

(11) For the reasons stated above, finding no merit in this criminal revision petition, I dismiss the same.

B.S.G.

REVISIONAL CRIMINAL

Before C. G. Suri, J.

LABH SINGH,—*Convict Petitioner.*

versus.

THE STATE OF PUNJAB,—*Respondent.*

Criminal Revision No. 187 of 1970.

October 7, 1971.

Penal Code (Act XLV of 1860)—Sections 108, 109 and 111—Principal Offender acquitted for want of proof of identity—Abettor to the offence—Whether can be convicted.

Held, that where principal offender who is tried along with the abettor of the offence is acquitted because of the failure of the prosecution to adduce enough evidence to establish his identity, it is not always that the abettor cannot be convicted. The conviction or the acquittal of the abettor will depend upon the facts and circumstances of each case. Indian Penal Code has itself noticed two exceptions, one is illustration (a) under Explanation 3 to Section 108 and the other is illustration (a) under the proviso to Section 111. It cannot, therefore, be laid down as a general rule that there can be no conviction of an abettor where the person arraigned as principal offender has been acquitted. (Para 3)

Petition under Sections 435/439 Cr. P.C. for revision of the order of Shri Udham Singh, Sessions Judge, Patiala, dated 6th February 1970,