

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2376 OF 2010

Union of India and Another

Appellant(s)

Versus

Ram Swaroop

Respondent(s)

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The respondent, while working at 33rd Central Reserve Police Force, Jalandhar, Punjab, had deserted the line in the night of 2nd November, 1991, without information/permission of the competent authority and returned on 2nd December, 1991, after expiration of thirty days. The authorities thought it apt that a proceeding should be initiated against him under Section 9(f) and 10(p) of the Central Reserve Police Force Act, 1949, (for brevity, 'the Act') and vide judgment and order dated 19th December, 1991, he was convicted and sentenced to undergo imprisonment till the rising of the court.

The said order was assailed by the respondent before the Sessions Judge, Ajmer, and eventually the matter was

heard by the learned Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Cases, Ajmer, Rajasthan. The learned Special Judge dismissed the appeal

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Chetan Kumar
Date: 2015.02.28
13:15:54 IST
Reason:

Being grieved, the respondent preferred the SB Criminal Revision Petition No.27 of 2001. The High Court on consideration of the rivalized contentions opined that as the service records of the 33rd Battalion, C.R.P.F., was maintained at Ajmer and the Group Centre was situated there, the court of Session at Ajmer would have jurisdiction. Being of this view, it set aside the order of the appellate court and remitted the matter.

We have heard Ms. Aakansha Kaul, learned counsel for the appellant and Mr. Satish Chand Gupta, learned counsel for the respondent.

As the factual narration would show, the respondent was proceeded under Section 9(f) read with Section 10(p) of the Act, that is, deserting the Force and committing an offence specified in clauses (e) to (i), both inclusive, and he was tried by the Deputy Commandant, who has been invested with the powers of the Magistrate under Section 16(2) of the Act. Section 16(2) of the Act, which is relevant for the present purpose, reads as follows:

"16(2). Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898) the Central Government may invest the Commandant or an assistant commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member:

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Provided that-

- (i) when the offender is on leave or absent from duty, or
- (ii) when the offence is not connected with the offender's duties as a member of the Force, or
- (iii) when it is a petty offence, even if connected with the offender's duties as a member of the Force,

the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed, so directs, be inquired into or tried by an ordinary

Criminal Court having jurisdiction in the matter."

On a reading of the aforesaid provision, it is clear as day that the Deputy Commandant was invested with the power of the Magistrate and he functioned as the ordinary criminal court having jurisdiction over the matter. The Deputy Commandant was placed at Jalandhar, Punjab. As there was a conviction and sentence and the court was that of a Magistrate, an appeal would lie under Section 374(3) of the Code of Criminal Procedure, for the Cr.P.C. gets attracted for the said purpose.

In view of the aforesaid analysis, the order passed as regards the territorial jurisdiction by the learned Special Judge at Ajmer is justified and the interference by the High Court is absolutely unwarranted.

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In view of the aforesaid, we set aside the order passed by the High Court and restore that of the learned appellate Judge and grant liberty to the respondent to prefer an appeal, if so advised, before the learned Sessions Judge, Jalandhar, within two months hence. If an appeal is filed within two months hence before the said court, the delay in filing the appeal shall be condoned on filing of an application for condonation of delay and the appellate court shall proceed to deal with the appeal on merits.

In the result, the appeal is allowed to the extent indicated above.

.....J.
[Dipak Misra]

.....J.
[Adarsh Kumar Goel]

New Delhi
February 24, 2015.

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S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No.2376 of 2010

UNION OF INDIA & ANR

Appellant(s)

VERSUS

RAM SWAROOP

Respondent(s)

Date : 24/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s)

Ms. Aakansha Kaul, Adv.
Mr. Raghavendra M. Bajaj, Adv.
Mr. B. Raghunath, Adv.
Mr. Shreekant N. Terdal, AOR

For Respondent(s)

Mr. Satish Chand Gupta, Adv.
Mr. Rameshwar Prasad Goyal, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)