

LETTERS PATENT APPEAL

Before S. B. Kapoor and A. N. Grover, JJ.

RISAL SINGH,—Petitioner

versus

CHANDGI RAM AND OTHERS,—Respondents

L.P.A. No. 25-D of 1965.

1966.
February 14th

Delhi Reforms Act (VIII of 1954)—S. 153(e)—Conviction of an offence under S. 19 (f) Arms Act (XI of 1878)—Whether amounts to conviction of an offence involving moral turpitude and disentitles the convicted person to be elected to or remain a member of the Gaon Panchayat.

Held, that the conviction of an offence under section 19(f) of the Arms Act for being in possession of an unlicensed fire-arm does not imply such depravity and wickedness of character or disposition which would involve any moral turpitude. People keep fire-arms for their personal safety and sometimes they resort to keeping arms without a licence when they feel that their status in society is not such as would enable them to get a licence from the authorities. No doubt they commit a contravention of the law, but it cannot be necessarily postulated that this contravention involves moral depravity and illness of character. Such a conviction does not disentitle the convicted person to be elected to or to remain a member of the Gaon Panchayat.

Chandgi Ram v. The Election Tribunal and others (1) affirmed.

Appeal under Clause 10 of the Letters Patent of the Punjab High Court against the judgment of the Hon'ble Mr. Justice D. K. Mahajan, dated 19th January, 1965, passed in Civil Writ Petition No. 6-D of 1965, allowing the petition.

DEVINDER KAUR AND BISHAMBER LAL, ADVOCATES, for the Appellant.

YOGESHWAR DAYAL, ADVOCATE, for the Respondents.

JUDGMENT

CAPOOR, J.—The sole question calling for decision in this Letters Patent Appeal is whether the conviction of

(1) I.L.R. (1965) 2 Punj. 160.

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Chandgi Ram, respondent No. 1, under section 19(f) of the Indian Arms Act for being in possession of an unlicensed revolver can be considered within the meaning of clause (e) of section 153 of the Delhi Land Reforms Act, 1954 (Act No. 8 of 1954) to be a conviction of an offence involving moral turpitude so as to disentitle him to be elected to or to remain a member of the Gaon Panchayat.

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Chandgi Ram contested the election to the seat of the Pradhan of the Gaon Panchayat of Pritampur in Delhi State and as a result of the election was declared a successful candidate. Risal Singh appellant challenged the election by means of an election petition and the Election Tribunal on the basis of the admitted fact that Chandgi Ram had been so convicted of an offence under section 19(f) of the Indian Arms Act held that he was not qualified to stand for the election and his nomination papers had been improperly accepted. Hence the election of Chandgi Ram as the Pradhan of the Gaon Panchayat of Pritampur was declared as invalid and Risal Singh who was another candidate for the election, was declared to have been duly elected. Chandgi Ram then came to this Court by way of a writ against the order of the Election Tribunal and D. K. Mahajan, J., by his order dated the 19th of January, 1965, held that the possession of an unlicensed revolver could not, in the circumstances of this case, amount to moral turpitude. He, therefore, allowed the writ petition quashing the impugned order. This Letters Patent Appeal is directed against the judgment of the learned Single Judge.

It appears from Annexure 'D', a copy of an order of this Court in Criminal Revision No. 6-D of 1955 (*Chandgi Ram v. The State*), decided on 4th of March, 1955, that Chandgi Ram was convicted under section 19(f) of the Indian Arms Act on the 15th of November, 1954. On appeal, while his conviction was maintained, his sentence was reduced to three months' rigorous imprisonment and, in revision, Harnam Singh, J., further reduced the sentence to the period of imprisonment already undergone and, in addition, ordered a fine of Rs. 100.

The election to the seat of the Pradhan of the Gaon Panchayat of Pritampur was held on the 8th of December, 1963, that is, some eight years after the date of Chandgi

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Ram's conviction for the possession of the unlicensed revolver.

The learned counsel for the appellant was unable to cite any direct authority for the proposition that conviction for an offence under section 19(f) of the Indian Arms Act should be taken to amount to moral turpitude within the meaning of the statutory provisions but he referred to a number of decisions in which there was some discussion of the connotation of the term "moral turpitude". In *Baleshwar Singh v. District Magistrate and Collector, Banaras and others* (2), which has been referred to by the learned Single Judge also, J. K. Tandon, J., observed—

"The expression 'moral turpitude' is not defined anywhere but it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct."

The learned Judge was dealing with the case of conviction under section 182, Indian Penal Code, for making a false report and in holding that conviction for such an offence involved moral turpitude he relied on an earlier decision of the Allahabad High Court reported as *Sita Ram v. District Magistrate, Pilibhit* (3). While he held that every false statement made by a person may not be 'moral turpitude', it was observed that it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellow-men or to his society in general. These observations were considered by another learned Judge of the Allahabad High Court A.P. Srivastava, J., in *Mangali v. Chhakki Lal and others* (4), on which also the learned counsel for the appellant relied. A.P. Srivastava, J., was of the opinion that some of the observations made by J. K. Tandon, J., had been too widely stated and, if followed literally, may make every act punishable in law an offence involving moral turpitude, which, of course, could not have been

(2) A.I.R. 1959 All. 71.

(3) 1957 All. L.J. 383.

(4) A.I.R. 1963 All. 527.

the intention of the Legislature, otherwise the qualification "involving moral turpitude" would not have been used by the Legislature and it would have merely disqualified every person who had been convicted of any offence. In the view of A.P. Srivastava, J., the tests, which should ordinarily be applied for judging whether a certain offence did or did not involve moral turpitude, are as follows:—

- (1) Whether the act leading to a conviction was such as could shock the moral conscience of society in general.
- (2) Whether the motive which led to the act was a base one, and
- (3) Whether on account of the act having been committed, the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

The offence of which the respondent in the writ petition had been convicted in *Mangali v. Chhaki Lal and others* (4), was the possession of a very small quantity, viz., one tola, of Bhang, for which the sentence imposed was a fine of Rs. 10. In the particular district in which the Bhang was seized from the man the possession of Bhang was an offence under section 50 of the U.P. Excise Act, while in the district to which he belonged there was no prohibition against taking Bhang. The learned Judge held that the act did not show any depravity in the character of the respondent nor had the respondent done anything which was considered base or demeaning by society in general; so that the conviction did not involve any moral turpitude.

If the tests, which are laid down in *Mangali's case* by A. P. Srivastava, J., are kept in view, I do not see how it can fairly be said that the offence of which Chandgi Ram respondent had been convicted involved moral turpitude. The learned counsel for the appellant maintained that it was for Chandgi Ram to give an explanation of the circumstances in which the offence had been committed and in this connection he referred to a judgment of P. D. Sharma, J., in *Milkha Singh and another v. Hardial Singh and others* (Civil Writ No. 145 of 1965)

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decided on 3rd of March, 1965. This is an unreported judgment, but there is a brief reference to it in the short notes in 1965 P.L.R. (Note No. 49 at P. 25). It appears that the conviction in that case was for an offence under section 61 of the Punjab Excise Act and the sentence imposed was two month's rigorous imprisonment, but the nature of the particular offence committed is not given, and so it is not possible to derive any help from that judgment.

On the facts of the case before us we are unable to find any error in the view of the learned Single Judge that the offence for which Chandgi Ram respondent was convicted implied no such depravity and wickedness of character or disposition which would involve any moral turpitude. As observed by the learned Single Judge, people keep fire-arms for their personal safety and sometimes they resort to keeping arms without a licence when they feel that their status in society is not such as would enable them to get a licence from the authorities. No doubt they commit a contravention of the law, but it cannot be necessarily postulated that this contravention involved moral depravity and illness of character.

There is, therefore, no force in this appeal, which is dismissed with costs. Counsel's fee Rs. 100.

Grover, J.

A. N. GROVER, J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

Before Hans Raj Khanna, J.

M/S AMERICAN FURNISHING HOUSE AND ANOTHER—
Petitioners

versus

UDAI RAM,—*Respondent*

C. Misc. 834-D of 1965 in C. R. 380-D of 1959.

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Provincial Small Cause Courts Act (IX of 1887)—S. 17(1) Provide—Whether applies to application filed for setting aside an ex parte decree passed by the High Court in revision.