

## **Budhan Choudhry and other v. State Of Bihar (AIR 191)**

### **1) Reference Details**

Jurisdiction: Indian Supreme Court

Date of Decision: 2 December 1954

Link to full case: <http://www.judis.nic.in/supremecourt/qrydisp.aspx?filename=864>

### **2) Facts**

This case was an appeal from a judgment of the High Court at Patna which raised a question of law regarding the Constitution. The appeal arose out of a criminal trial held in Bihar. The case against the appellants was investigated by the local police and they were then tried under s. 30 of the Code of Criminal Procedure, which permitted the appellants to be tried by a s. 30 Magistrate and not by a Court of Session, and convicted on charges under the Indian Penal Code.

The appellants appealed to the High Court at Patna on the basis of violation of the Constitution. The appeal was dismissed on the grounds that s. 30 did not violate Article 14 of the Constitution (non-discrimination). The High Court upheld the conviction but reduced the sentence. The Court granted leave to appeal to the Indian Supreme Court.

### **3) Law**

*National Law*

- Article 14 of the Constitution of India (non-discrimination)
- Indian Penal Code
- Section 30 of the Indian Code of Criminal Procedure

### **4) Legal Arguments**

*The Appellants*

The appellants argued that there had been an infraction of the fundamental rights guaranteed to the appellants under Article 14 of the Constitution. This was due to the fact that the appellants had been tried by a s. 30 Magistrate following the warrant procedure and not by a Court of Session. They argued that a trial before a Sessions Judge is advantageous to the accused person in that he gets the benefit of the committal proceedings before a Magistrate and then a trial before the Sessions Judge with the aid of the jury or assessors.

### **5) Decision**

The Supreme Court noted that judges at appeal first emphasised that the interpretation of Article 14 is well established and does not need to be re-addressed. The Article condemns both discrimination by law and by procedure, but the Constitution “*does not assure unanimity of decisions or immunity from merely erroneous action*” by courts or by bureaucracy.

The judges quoted ample precedent to demonstrate that s. 30 of the Code of Criminal Procedure did not infringe the fundamental right guaranteed by Article 14 of the Constitution.

Their view of the issue was whether the empowerment of magistrates to try all offences not punishable with death brings about an inequality and violates the Article 14 guarantee. They noted that the appellants suggested that discrimination may be brought about either by the Legislature or the Executive or even the Judiciary and the inhibition provided by Article 14 extends to all actions of the State denying equal protection of the laws.

However, the Supreme Court pointed out that:

*"[T]he Constitution does not assure uniformity of decisions or immunity from merely erroneous action, whether by the Courts or the executive agencies of a State. The judicial decision must of necessity depend on the facts and circumstances of each particular case and what may superficially appear to be an unequal application of the law may not necessarily amount to a denial of equal protection of law unless there is shown to be present in it an element of intentional and purposeful discrimination. It may be mentioned at once that in the present case there is no suggestion whatever that there has been at any stage any intentional or purposeful discrimination as against the appellants by the Magistrates who actually tried the accused. Further, the discretion of judicial officers is not arbitrary and the law provides for revision by superior Courts of orders passed by the Subordinate Courts."*

In conclusion, they determined that there was no evidence of discrimination by the judicial tribunals. They decided that the appellants had not made a case of infringement of any fundamental right under Article 14.

The appeal was dismissed.