

there is no power in the Court to order a compromise, whether the liquidator recommends it or not."

In *In re the International Contract Company (Hankey's Case)* (1), it was held in the case of a suggested compromise of a creditor's claim that the Court had no jurisdiction to compel the Liquidator of a Company to accept a compromise of a creditor's disputed claims against the Company.

It is quite clear from these authorities that in this case the Court has no jurisdiction to compel an unwilling Liquidator to compromise a debt due to the company in liquidation. The Liquidator in this case is not in a position to file an affidavit that the proposed reduction in the debt will be beneficial to the Company in liquidation.

The petition therefore must be dismissed.

A. N. K.

*Petition dismissed.*

### MISCELLANEOUS CRIMINAL.

*Before Din Mohammad J.*

#### PETITION BY THE ADVOCATE-GENERAL, PUNJAB.

**Criminal Miscellaneous No. 334 of 1938.**

*Criminal Procedure Code (Act V of 1898), S. 561-A — Expunction of remarks in a judgment — principles governing exercise of power in such matters — Remarks against parties or witnesses not borne out by the evidence on the record — Legality thereof.*

*Held*, that while the Courts are at liberty to discuss the conduct of the persons before them, either as parties or as witnesses, untrammelled by any considerations, they are not permitted to travel beyond the record and are bound to exercise due restraint on the language employed by them. In other words, they should neither make any such sweeping

1938

CHIRAGH DIN

v.

THE OFFICIAL

LIQUIDATOR,

THE PEOPLES

BANK OF

NORTHERN

INDIA, LTD. (IN

LIQUIDATION),

LAHORE.

YOUNG C. J.

1938

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PETITION BY THE ADVOCATE-GENERAL, PUNJAB.

assertions as are not borne out by the evidence on the record nor should they use language which is unduly harsh.

The Courts should play the role of Judges alone and not that of propagandists and confine their attention to the evidence on the record and to the matters requiring determination at their hands.

*Amar Nath v. The Crown* (1), *In the matter of Daly* (2), *Emperor v. Atta Ullah Shah Bukhari* (3), and Civil Miscellaneous No.657 of 1937, *Punjab Government v. Man Kaur* (unpublished), relied upon.

*Petition under Section 561-A, Criminal Procedure Code, by the Advocate-General, Punjab, for expunction of certain remarks from the judgment of Mr. C. M. Ormerod, Sessions Judge, Rawalpondi, dated 26th April, 1938, passed in Sessions Case No.7 of 1938, Crown v. Raja Ram and another.*

M. SLEEM, Advocate-General, for Petitioner.

DIN MOHAMMAD J.

DIN MOHAMMAD J.—This order will dispose of Criminal Miscellaneous Nos.334, 335 and 336 of 1938. These three petitions were submitted by the Advocate-General for expunging certain remarks made by Mr. Ormerod, Sessions Judge, while acquitting the accused in *Crown versus Raja Ram and Jai Ram* under section 302, Indian Penal Code. Notice was issued to the District Magistrate but no reply has been received from him so far. The Advocate-General contends that in a matter like this where the Provincial Government is itself making a motion for the expunging of the remarks, the District Magistrate cannot take any action which is contrary to its wishes and that consequently it is not necessary to wait for his reply. As at present advised, I am not prepared to differ from him and

(1) I. L. R. (1924) 5 Lah. 476.

(2) I. L. R. (1928) 9 Lah. 261

3) (1936) 162 I. C. 624.

consequently proceed to dispose of the petitions in the presence of the Advocate-General alone.

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The principles which govern this matter have been laid down elaborately in *Amar Nath v. The Crown* (1), *In the matter of Daly* (2) and *Emperor v. Atta Ullah Shah Bukhari* (3), and have further been reaffirmed by Tek Chand J. in Civil Miscellaneous No.657 of 1937, *Punjab Government v. Man Kaur*, which by the way related to the same officer. They need not consequently be discussed here at length. Suffice it to say that while on the one hand Courts are at liberty to discuss the conduct of the persons before them, either as parties or as witnesses, untrammelled by any considerations, on the other they are not permitted to travel beyond the record and are bound to exercise due restraint on the language employed by them. In other words, they should neither make any such sweeping assertions as are not borne out by the evidence produced before them nor should they use language which is unduly harsh.

Tested in the light of these observations the passages to which the Advocate-General has taken exception are no doubt objectionable. In some of them Mr. Ormerod has characterised the conduct of the police officers concerned in words which to say the least are most injudicious and improper and in others he has evidently referred to matters which were in no wise before him. The most offensive feature of the whole case, however, is where he has made an appeal to the press to take up the particular defects pointed out by him in the working of the police and to start a public agitation against them. Courts are not expected to play to the gallery nor to invoke the press in

(1) I. L. R. (1924) 5 Lah. 476.

(2) I. L. R. (1928) 9 Lah. 269.

(3) (1936) 162 I. C. 624.

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PUNJAB.

—  
DIN  
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a manner which is liable to be misunderstood and may land the administration in general in an awkward situation. They should play the part of Judges alone and not that of propagandists and confine their whole attention to the evidence led before them and to the matters requiring determination at their hands. If they strictly observe these principles, they would be able to approach their task with a clear vision and an unclouded mind and this would not only conduce to the better administration of justice but would further save their time as well as the time of everybody else concerned.

I accordingly order that the passages detailed in the appendices to these petitions be expunged from the judgment of Mr. Ormerod in *Crown versus Raja Ram and Jai Ram*, dated the 26th April, 1938.

A. N. K.

*Petition accepted.*

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