

Rajkishore Vs. Prahlad

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SooperKanoon Citation : sooperkanoon.com/1052057

Court : Madhya Pradesh

Decided On : Feb-27-2013

Appellant : Rajkishore

Respondent : Prahlad

Advocate for Pet/Ap. : Shri. Y.M.Tiwari

Judgement :

Cr.R.No.1912/2012 27.2.2013 Shri Y.M.Tiwari counsel for the applicant.

None for the respondent.

Heard on admission.

The applicant has challenged the order dated 3.9.2012 passed by the learned Additional Sessions Judge, Burhanpur in Criminal Revision No.61/2012 whereby the order passed by JMFC, Burhanpur in Complaint Case No.1716/2006 was set aside and application under Section 91 of the Cr.P.C filed by the respondent was accepted.

For the present revision the facts of the case in short are that, the respondent has moved a complaint against the applicant under Section 138 of the Negotiable Instruments Act.

Case was at the stage of final argument.

The respondent has moved an application under Section 91 of the Cr.P.C that a second notice was given to the applicant on his address of Village Basali and the U.P.C certificate of that notice could not be filed because it was not available with the respondent and therefore, by the application under Section 19 of Cr.P.C he wanted to file that document.

The learned JMFC dismissed the application but the revisionary Court accepted the same.

On considering the submissions made by learned counsel for the applicant, it is to be seen by the trial Court as to whether the applicant was residing at Village Basali in those days or not.

A right of rebuttal is available to the applicant.

An opportunity is to be given by the complainant to prove that a valid notice was given to the applicant prior to filing of the complaint.

Under such circumstances, if such document is taken on record or due to that document if the complainant is to be re-examined then nothing illegality is visible.

No illegality or perversity is visible in the impugned order passed by the learned Additional Sessions Judge, Burhanpur.

The applicant is at liberty to rebut the document filed by the respondent and to cross-examine the complainant on the basis of the documents submitted by him.

He is at liberty to adduce evidence that he was not residing at Village Basali during those days.

Under such circumstances, the revision filed by the applicant has no force and therefore, it cannot be accepted.

Consequently it is dismissed at motion stage.

(N.K.Gupta) Judge bina