

Jijo and anr. Vs. State

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Court : Karnataka

Decided On : Jun-05-2002

Reported in : 2003CriLJ256; ILR2002KAR3994

Judge : K. Sreedhar Rao, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - 407; Code of Criminal Procedure (CrPC) , 1974 - Sections 161(3) and 181(4)

Appeal No. : CrI. P. No. 22 of 2002

Appellant : Jijo and anr.

Respondent : State

Advocate for Def. : S.G. Rajendra Reddy, Adv.

Advocate for Pet/Ap. : Rajavalse M., Adv.

Disposition : Petition dismissed

Judgement :

ORDER

K. Sreedhar Rao, J.

1. The petition filed under Section 482, Cr. P.C. for quashing of the proceedings in CC No. 8546/99. The petitioners are the accused against whom the State had laid

the charge sheet for committing offences punishable under Sections 407 and 420, IPC. The first petitioner is the owner of the lorry in question, accused 2 is the driver of the lorry. According to prosecution version, the lorry in question was hired by Amrut Distilleries Limited for transportation of liquors to be delivered to Kerala State Beverage (Manufacturing and Marketing) Corporation Limited at Kerala, Amrut Distilleries had entered into a contract of transport of its goods with the Reliable Transport Service. The Reliable Transport Service had in turn had hired the lorry in question from Balamurugan Roadways for transportation of the goods in question. It is said that after the goods were loaded, the petitioners misappropriated the goods and did not deliver the same at the destination point. The Police after registration of the crime, investigated and filed the charge-sheet.

2. The trial Court after hearing the accused, passed an order that there is sufficient material to frame charge against the petitioners under Sections 407 and 420, IPC. Being aggrieved by the said order, the present petition is filed.

3. It is the contention of the petitioner that the Court at Bangalore had no jurisdiction to try the case. In that regard relied on the Ruling of this Court in Mysore Manufacturers and Traders, Bangalore v. Ray Choudhary, Madras, 1978 Cri LJ 577. When the goods are entrusted for delivery at certain place, if the delivery is not made on account of misappropriation, the Court within whose local jurisdiction the place of delivery situate has jurisdiction to try the offence under Sub-section (4) of Section 181 of Cr. P.C.

4. It is relevant to refer to the provisions of Sub-section (4) of Section 181 of Cr. P.C. which read thus :

'181.(1) to (3) xxxxxxxxxxxxxxxxx

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject-matter of the offence was received, retained or was required to be returned or accounted for by the accused person.'

On close reading of the provisions of Sub-section (4) in respect of offence of criminal misappropriation or criminal breach of trust, the Court within whose local jurisdiction. the offence was committed or any part of the property which is the subject-matter of offence was received, retained or was required to be returned or accounted for by the accused person gives the jurisdiction to the Court to try the offence. In other words the Court in whose local jurisdiction the place of entrustment is made or place of misuse or misappropriation takes place or the place where delivery is to be effected in each of the Courts in whose local jurisdiction any one of the contemplated contingencies take place will have jurisdiction to try the offence. The decision of this Court relied on by the Counsel for the petitioner is beside the point. In the said decision, it is only laid down that place of delivery also gives a jurisdiction for the Court to try the offence. There is no proposition of law laid down in the said decision that the Court within whose local jurisdiction the entrustment is made does not get jurisdiction to try the offence. On the other hand, the plain reading of Sub-section (4) clearly declares that place of entrustment also give a jurisdiction to the Court for trial of the offence of criminal misappropriation or criminal breach of trust.

5. The Counsel for the petitioner submitted that there is no prima facie material for framing the charge. Even on this ground, I find no merit in the contention. The statement of the witnesses recorded by the Police is perused. The trial Court has also taken into consideration the documentary material and the oral statement recorded by the Investigation Officer under Section 161(3) and there are incriminating material available from the oral statement and the documentary material that the goods in question were entrusted to the petitioners. Regarding the veracity of the said statements, it is not a stage where the Court can enquire into. The denial of entrustment contended by the Counsel for the petitioner becomes a disputed question of fact and it is a subject matter of evidence and proof. The veracity of the statement recorded by the Police which forms part of the final report cannot be suspected or disbelieved at this stage and the said documents bear a prima facie incriminating material to enable the Court to frame a charge. Accordingly, I find no merit in the petition. Hence, the petition is dismissed.

