

Mangaroo Vs. the State of U.P.

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Court : Allahabad

Decided On : Jul-11-1991

Reported in : 1992CriLJ1397

Judge : N.L. Ganguli, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 482; ;Indian Penal Code (IPC) - Sections 147, 322 and 504

Appeal No. : Criminal Misc. Appeal No. 8184 of 1991

Appellant : Mangaroo

Respondent : The State of U.P.

Advocate for Def. : D.G.A.

Advocate for Pet/Ap. : D.R.S. Chauhan, Adv.

Judgement :

N.L. Ganguli, J.

1. This is an application under Section 482, Criminal Procedure Code for quashing the order of the learned revisional Court dismissing the revision barred by limitation.

2. In a criminal complaint under Sections 322 (sic), 147, 504, I.P.C., the applicant, Mangaroo, along with 3 of his family members were arrayed as accused persons. The notices were issued. The personal attendance of all the accused persons were exempted by the order of the Court. The complainant of the case moved an application for cancelling the order exempting the personal attendance of the accused, Mangaroo, who in fact is employed in Middle-East at Dubai. The personal attendance of the accused was exempted and he left India for joining the service at Dubai without obtaining prior permission of the Court. Therefore, an application for cancellation of exemption of personal attendance of applicant was moved which was allowed. Notices were issued for personal appearance in the Court. Since the applicant was not in India, the applicant moved an application giving all the facts, but the learned Magistrate passed order for appearance before the Court and issued process for his appearance in the Court on the ground that the applicant left India without obtaining prior permission from the Court. The said order was challenged in revision before the revisional Court and the same was with delay and the same was rejected on the ground of limitation.

3. I have heard learned counsel for the applicant and perused the order in question. I do not find any error of law or procedure in the order impugned. However, in the facts and circumstances of the case and the nature of the offence as alleged in the complaint, I consider a direction may be issued to the Court below do modify its order after taking into consideration that the accused person against whom the orders have been passed is at present out of India. It would serve the ends of justice if the same application is again moved through counsel before the Court to exempt the personal attendance in the case. If the complainant moves such an application for cancellation of exemption out of revenge or in order to pressurise the applicant so that he may lose his job in a foreign country only to face trial which is not for a very serious offence involving moral turpitude, it should not be permitted. I, thus, direct the learned Magistrate to grant personal exemption from appearance to the applicant if he moves an application through counsel for that purpose before the Court concerned. If after the conclusion of the trial, the Court is of the view that the accused is likely to be convicted, he may pass the order directing the accused person to appear in person and grant him such reasonable time as to enable him to come back from Dubai to appear before the

Court.

4. With these directions the petition is disposed of. I have heard the learned counsel for the State, He has no objection to the disposal of the case at this stage. A certified copy of order be issued in 3 days.

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