

Sheo Shankar Vs. Mohan Sarup

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Court : Allahabad

Decided On : Dec-02-1920

Reported in : AIR1921All12; 60Ind.Cas.996

Judge : Girmwood Mears, C.J.,; Rafique and; Ryves, JJ.

Appellant : Sheo Shankar

Respondent : Mohan Sarup

Judgement :

1. This is an application in revision at the instance of Sheo Shankar, His casa is that he has been brought before the Magistrate of Miizapur District, who has commended to try a criminal charge against him, without having any jurisdiction so to do. Sheo Shankar says that the jurisdiction should be Allahabad and not Miizapur.

2. Now, the question of jurisdiction mast be decided at the out sat by a perusal of the complaint. It is on the terms of the complaint that the Magistrate first has to inform himself as to the nature of the case, and see whether, from the allegations made in the complaint, it would appear that he had jurisdiction (o entertain it. For sometime we have had our attention drawn to the authorities on one or the other side of the line and there is no doubt that, during part of the hearing, we were under the impression that this case raised in a convenient form all the facts necessary for a definite decision on Section 179 of the Code of Criminal

Procedure. Our inclination was expressed to be to uphold the decision in *George Lanqridge v. George Atkins* 17 Ind. Cas. 792 : 35 A. 29 : 10 L.J. 413 : 15 Cr. L.J. 856. But a translation of the complaint which was laid before us towards the close of the case has made it perfectly clear that this is a simple matter. The complainant alleges that Sheo Shankar was a servant of a cloth shop situated in Mirzapur, and as much servant it was his duty to realise the price of cloth from traders according to the directions given by the master of the shop and to deposit the money thus realised in the shop at Mirzapur. The complainant then goes on to allege that on the 27th of December 1919 the servant was bent in the course of his duties to two villages to collect money and that he did collect some Rs. 1,500; that those two villages were in the District of Allahabad, and that the collections were made on account of the money are to the petitioner's master. Then, paragraph 6 sets out that, instead of depositing the aforesaid sums at the shop of the petitioner's master the accused No. 1, at the instigation of, and in consultation with the accused No. 2, who is his brother, in law, and in order to conceal his criminal breach of trust, the accused No. 1 made a report at the Police station at Manda, in the Allahabad District, that a dacoity had taken place. On the investigation made by Manda Police and the Police Inspector of the Allahabad District, the said report was found to be absolutely false and groundless and to have been made in collusion with the accused No. 2. Subsequently, the complaint asked that both the accused may be punished under Sections 408, 114 of the Indian Penal Code, It should be stated that the residence of accused No. 2 (the brother-in-law of the applicant here) is stated to be in the Mirzapur District, Therefore, when, the Magistrate perused this document he was, we think, entitled to assume that the matter was within his jurisdiction. According to the complaint, the plan to misappropriate this money was conceived in Mirzapur and the subsequent journey to Manda was undertaken only to give color to what was said to be a false story. Accused No. 1 was the servant of the complainant and had a duty to account to his master at the shop at Mirzapur. In the circumstance, the case does not present any feature of importance or make it necessary for us to consider which of the various decisions in Section 179 of the Code of Criminal Procedure we prefer. But we do take the opportunity of saying that at one moment this case did appear to us to be undistinguishable from the case of *George Lanqridge v. George Atkins* 17 Ind. Cas.

729 : 35 A. 29 : 10 A.L.J. 431 : 15 Cr. L.J. 856. The application, therefore, must be rejected and the record will be returned for the trial of the case on the merits.

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