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Rahim Poonaji Vs. Abdul Rahim and anr.

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Court : Madhya Pradesh

Decided On : Oct-16-1951

Reported in : 1953CriLJ1027

Judge : Kaul, C.J.

Appellant : Rahim Poonaji

Respondent : Abdul Rahim and anr.

Judgement :
ORDER

Kaul, C.J.

1. These two revision applications have been filed by Abdul Rahim. He does not know to which Court he is to go to seek redress. He has gone to two Courts - the Sessions Judge Court, Ujjain and the Sessions Judge Court, Indore - and both of them have held that the matter agitated by Abdul Rahim could not be taken cognizance of by them hence the petitioner comes to this Court. He has filed an application in revision against the order of each Sessions Judge. Application No. 122 of 1950 is against the order of the learned Sessions Judge of Ujjain and Application No. 123 of 1950 is against the order of the Additional Sessions Judge, Indore.

2. The material facts are shortly stated: Abdul Rahim who lives within the precincts of Ujjain Railway Station filed a complaint against his alleged wife Jumrath and

Abdul Rahiman for offences under Sections 497 and 498, I.P.C. in the Court of the Railway Magistrate Mhow, There are two Railway Magistrates for the whole of Madhya Bharat. One of them has his head quarters at Mhow and the other at Lashkar. All the Railway areas within the State are divided into two circles. The Railway Magistrate at Mhow exercising jurisdiction over one circle and the Railway Magistrate, Lashkar over the other. The Railway area Ujjain is within the circle of Railway Magistrate Mhow. The learned Magistrate discharged the accused under Section 253(1), Criminal P.C. Dissatisfied with this order the complainant filed a revision application before the Sessions Judge of Ujjain. The learned Judge took the view that inasmuch as the head quarters of the Railway Magistrate Mhow was within the Sessions Division Indore an application for revision of an order passed by that Court can be entertained only by the Sessions Judge Indore. He accordingly refused to entertain the application. When Abdul Rahim approached the Sessions Judge, Indore with a similar application the learned Additional Sessions Judge of Indore took a different view of Section 435, Criminal P.C. For reasons which are not clear the learned Additional Sessions Judge took the view that inasmuch as the offence complained of was committed outside his local jurisdiction an application for revision of an order passed by the Railway Magistrate with respect to such an offence could not be entertained by him.

3. I have considered the judgment of the learned Additional Sessions Judge of Indore and am of opinion that he is in error in the view taken by him. An application for revision before a Sessions Judge lies under Section 436, Criminal P.C. The relevant portion of that section reads as follows:

The High Court or any Sessions Judge...may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed...of such inferior Court....

4. It is clear therefore that the power to entertain a revision application against an order passed by an inferior Criminal Court is given to the Sessions Judge exercising jurisdiction over the area where such inferior Criminal Court is situate.

The jurisdiction to entertain a revision application is determined by reference to the situation of the Court by which the order sought to be revised was passed. It is determined not with reference to the place where the offence was committed. Accordingly in the instance before us even though the offence was alleged to have been committed in the Railway area at Ujjain the order sought to be revised was passed by the Railway Magistrate Mhow. In view of the provisions of Section 435, Criminal P.C. it is the Sessions Judge of Indore and not the Sessions Judge at Ujjain who has the authority to entertain a revision application against that order. Apart from other grounds the reasons stated above show that the view taken by the Additional Sessions Judge Indore is not correct.

5. I accordingly accept Revision Application No. 123 of 1950 and set aside the order passed by the learned Additional Sessions Judge Indore. The case shall go back to him with the direction that he should entertain the revision application and dispose it of in accordance with the law.

6. Criminal Revision Application No. 122 of 1950 filed against the order of the learned Sessions Judge of Ujjain is dismissed.

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