

Ganpat Nath Jogi Vs. State of Orissa

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Court : Orissa

Decided On : Apr-07-1995

Reported in : 1995CriLJ3680

Judge : R.K. Dash, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 183 and 482; Indian Penal Code (IPC) - Sections 207 and 379

Appeal No. : Cri. Misc. Case No. 721 of 1995

Appellant : Ganpat Nath Jogi

Respondent : State of Orissa

Advocate for Def. : Meera Ghosh, Addl. Govt. Adv.

Advocate for Pet/Ap. : S. Mohapatra, Adv.

Judgement :

ORDER

R.K. Dash, J.

1. This is an application under Section 482, Cr. P.C. by Ganpat Nath Jogi, accused in Cuttack G.R.P.S. Case No. 1 of 1995 under Sections 379 and 207, I.P.C., to quash the order of the learned Judicial Magistrate, First Class (Rural),

Cuttack, transferring the accused from Circle Jail, Choudwar, Cuttack, for production before the VII Metropolitan Magistrate, Vijaywada.

2. The fact of the case lies in a narrow compass:

Informant Jitendra Kumar Mishra, boarded Konark Express on 6-12-94 morning to come to his native place Kendrapara in the district of Cuttack. The present accused also boarded in the same compartment and developed intimacy with him. On the way while the informant was taking tiffin near the door of the compartment the accused gave a violent push, as a result he fell down from the running train. He was then taken to Government General Hospital, Eluru, where his left arm was amputated. After being discharged from the hospital, he came to Cuttack with his elder brother. He underwent further treatment at Cuttack in a nursing home where his left arm was further amputated. On 5-1-95, it is alleged, the accused was found at Jaipur town and on being confronted, he disclosed his name, whereupon he was taken to the G.R.P.S., Cuttack, and on information being lodged, G.R.P.S. Case No. 1 of 1995 was registered and investigation taken up.

3. The order dated 20-1-95 of the Magistrate First Class (Rural), Cuttack, reveals that one Shri S.V. Appa Rao, Sub-Inspector of Police, G.R.P.S., Elore, approached the Magistrate and stated that after transfer of the F.I.R. from G.R.P.S., Cuttack, Crime Case No. 15 of 1995 has been registered at Elore G.R.P.S. Since due to lack of time he could not obtain warrant from the Magistrate having jurisdiction over the case for production of the accused at Vijayawada, he prayed for remand of the accused for a period of 15 days within which he could be able to get the warrant from the said court. Subsequent orders reveal that since G.R.P.S., Elore has the jurisdiction to investigate into the case after transfer of the F.I.R. from Cuttack G.R.P.S., the accused was ordered to be produced before the VII Metropolitan Magistrate, Vijaywada, within whose jurisdiction Elore G.R.P.S. comes. Accordingly the case record was also transmitted to the said court.

4. Shri Mohapatra, learned counsel appearing for the accused, strenuously urged that since the accused was apprehended in the State of Orissa, only the Magistrate at Cuttack has jurisdiction to try the case. In support of his submission, he referred to Section 183, Cr.P.C. and also the decisions reported in : 1978

CriLJ640 (Dr. Ram Chandra Singh Sagar v. State of Tamil Nadu); 1986 Cri LJ 173 (Charanjit Singh v. State of Himachal Pradesh) (1924) 25 Cri LJ 489: AIR 1924 Rangoon 212 (Emperor v. Moulabox). I have gone through the said decisions as also Section 183, Cr.P.C. But I am unable to subscribe to the view of Shri Mohapatra.

5. Section 183 envisages that when an offence is committed whilst the person by or against whom or the thing in respect of which, the offence is committed in the course of performing a journey or voyage, the offence may be inquired into or tried by a court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage. The word 'may' indicates that it is not mandatory that the case has to be tried where the accused ends his journey. That apart, the submission of Shri Mohapatra also does not appeal to commonsense. It is nowhere the law that if the offence is committed by an accused in any place in Orissa and ultimately the accused was apprehended in Kashmir, the case is to be tried by the Magistrate of Kashmir. So, in my opinion, the Magistrate within whose jurisdiction the occurrence took place can only try the case and not by the Magistrate within whose jurisdiction the accused was apprehended. The decisions cited by Shri Mohapatra are distinguishable from the facts and circumstances of the present case.

6. In view of my discussions made above, I am of the considered opinion that since the occurrence of the present case took place in between Elore and Chabrol Railway Station which comes within the jurisdiction of the VII Metropolitan Magistrate, Vijaywada, it is that court which has jurisdiction to try the case.

In the result, the Criminal Misc. Case is dismissed.

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