

Ram Narain Mathur Vs. the State

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Court : Punjab and Haryana

Decided On : Jun-04-1955

Reported in : AIR1956P& H127; 1956CriLJ774

Judge : Harnam Singh, J.

Acts : Code of Criminal Procedure (CrPC) , 1908 - Sections 154, 177 and 190(1)

Appeal No. : Criminal Revn. No. 393 of 1955

Appellant : Ram Narain Mathur

Respondent : The State

Advocate for Def. : Kartar Singh Chawla, Asst. Adv. General

Advocate for Pet/Ap. : M.L. Sethi, Adv.

Disposition : Revision dismissed

Judgement :

Harnam Singh, J.

1. On 11-6-1953. Provisional Liquidator. Simla Banking and Industrial Company, Limited, hereinafter called the banking-company, reported to the Superintendent of Police that Shri Ram Narain had committed an offence under Section 420. I. P. C. In that report the provisional Liquidator stated that in 1947 Shri Ram Narain had

pledged with the Banking-company scrips of five hundred shares of the East Indian Coal Company, Limited, Calcutta, as security for the repayment of the amount payable by him in the cash credit account.

Shri Ram Narain obtained duplicate scrips of the five hundred shares of the East Indian Coal Company, Limited, Calcutta, on the representation that the original scrips had been lost. Shri Ram Narain sold the scrips but failed to deposit the proceeds of the shares with the banking-Company. In this manner Shri Ram Narain, it was stated in the report, had diminished the security for the repayment of the amount payable by him. in the cash credit account.

In the report it was stated that the fraud practised on the banking company was a consequence of the deception practised on the East Indian Coal Company, Limited, Calcutta.

(2) As a result of the investigation the Police reported in writing that Shri Ram Narain had committed an offence under Section 420, I. P. C. On 23-11-1953, the District Magistrate sent the case for trial to the Addl. District Magistrate, Simla. On 24-12-1953. Shri Ram Narain objected to the jurisdiction of the Magistrate to try the offence on the ground that the facts given in the initial report did not bring the case within Section 179, Cr. P, C., hereinafter called the Code.

3. In the Court of the Additional District Magistrate it was said that the question of jurisdiction was to be decided on the initial report under Section 154 of the Code and the Police 'challan' and that other evidence could not be used to determine the question of jurisdiction. In deciding the point the Additional District Magistrate said:

'I overrule the contention of the learned counsel for the accused that the question of jurisdiction should be decided with reference to the report of the police and the first information report and the other documents alone. I uphold the contention of the Assistant Advocate-General that this matter is to be decided when some evidence has been led.'

4. Shri Ram Narain applies under Section 435 of the Code for the revision of the order passed by the Additional District Magistrate on 21-3-1955.

5. In Civil cases the facts showing that the Court has jurisdiction are to be stated in the plaint. In such cases where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined. In this connection Rule 1 of Order 7 and Rule 2 of Order 14, Civil P. C. may be seen.

6. Section 154 of the Code does not make it incumbent on the informant to state facts in the first information report showing that the Court has jurisdiction to try the offence. In the Code there is no provision corresponding to Rule 2 of Order 14. Civil P. C.

7. Section 190(1)(b) of the Code provides that the Magistrate may take cognizance of any offence upon a report in writing of facts which constitute an offence made by any Police Officer,

8. In the present case the Police Officer made a report in writing of the facts which constitute the offence and upon that report the District Magistrate took cognizance of the offence.

9. In the trial of warrant-cases when the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant, if any, and take all such evidence as may be produced in support of the prosecution. On this point Section 252 of the Code may be seen.

10. Plainly, the procedure that the Additional District Magistrate proposes to follow does not contravene the procedure to be observed by Magistrates in the trial of warrant-cases.

11. That being the position, I see no justification to interfere in the order passed by the Additional District Magistrate, Simla, on 21-3-1955.

12. In the result, I dismiss Cr. Revn. No. 393 of 1955.

13. In leaving this order I express a hope that the Magistrate will decide the objection as to jurisdiction at an early stage of the proceedings.

14. Parties are directed to appear in the Court of the Additional District Magistrate, Simla, on 16-6-1955.

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