

Banwarilal Vs. the State and anr.

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Court : Gujarat

Decided On : Mar-28-1966

Reported in : 1968CriLJ280; (1967)GLR551

Judge : V.B. Raju, J.

Appellant : Banwarilal

Respondent : The State and anr.

Judgement :

V.B. Raju, J.

1. One Banwarilal has been prosecuted in the Court of the Judicial Magistrate, First Class, at Kalol, for an offence of cheating under Section 420 of the Indian Penal Code. The prosecution case is that he sent goods to a merchant at Kalol and the arrangement was that he should take 75 per cent of the value of the goods from the branch of the Baroda Bank at Bareli on the production of a railway receipt and a bill. The prosecution-case was further that a false bill was presented by the accused and an excess amount was taken from the said Bank by the accused. He is, therefore, said to be guilty of cheating. Even, if the Bank of Baroda at Bareli be taken to be the agent of the complainant, even then the offence of cheating would take place only at Bareli and not at Kalol because anything that was done at Kalol would amount to a false representation. Any letter written to Kalol would amount to a false representation. It was not suggested in the complaint that any letter was

written at Kalol making a false representation, but it was stated that a false bill was produced at the Bank of Baroda at Bareli and an excess amount was recovered and that it amounts to cheating. In that case, the offence can only be tried by the Bareli Court and not by the; Kalol Court. Section 179 of the Criminal Procedure Code has no application to the instant case. Section 179, Cr.P.C. reads as follows:

When a person is accused of the commission of any offence by reason of anything' which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

It cannot be said that the loss which the com-K plainant suffered was at Kalol. His money was at the Bank of Baroda at Bareli and by a false representation that money was taken from the Bank of Baroda at Bareli. The loss, if any, accrued at Bareli. Section 179 of the Criminal Procedure Code has, therefore, no application.

2. The charge against Banwarilal is, therefore, quashed and it is held that the learned 'Judicial Magistrate, First Class, at Kalol, has no jurisdiction to proceed with the trial. The revision application is allowed.