

Munna Lal Vs. State

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Court : Rajasthan

Decided On : Oct-04-1963

Reported in : AIR1964Raj118

Judge : L.N. Chhangani, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 177, 180, 181(3) and 183

Appeal No. : Criminal Revn. No. 305 of 1963

Appellant : Munna Lal

Respondent : State

Advocate for Def. : A.R. Mehta, Asst. G.A.

Advocate for Pet/Ap. : M.B.L. Bhargava, Adv.

Disposition : Revision allowed

Judgement :

L. N. Chhangani, J.

1. This is a revision by accused Munnalal and is directed against the order of the Special Judicial (Railway) Magistrate, Jodhpur, dated 5th March, 1963 overruling the accused's objection to the competence of the Magistrate to try the case. The

petitioner challenged the same order in a revision before the Court of Session, Jodhpur, but the Additional Sessions Judge, Jodhpur, by his Judgment dated 15th May, 1963 upheld the order of the Railway Magistrate, and dismissed the revision.

2. The facts giving rise to the revision may be briefly stated as follows:

One Chandanmal, of Ladnun boarded Jodhpur Mail at Delhi on the night intervening 10th and 11th July, 1962, his destination being Ladnun. He had an aluminium box containing jewellery with him which he kept in his bedding. During the course of Journey, he went to sleep and woke up when the train was stopping at Loharu Railway Junction; looked for his bedding and found it missing. On enquiry from the fellow travellers he learnt that some person had just got down at Loharu Junction platform and he might have taken away his bedding. The complainant got down at the Railway Station and searched for the man but could not find him. He made no report at Loharu Railway Police Station but continued the journey by the same train upto Ratangarli. At Ratangarh he lodged a report in writing, to the Railway Police alleging specifically that a theft had been committed by some one between Railway Stations Rewari and Loharu. This report was sent to the Railway Police, Loharu for investigation. The report, however, was not entertained by the Police having jurisdiction over Loharu Junction. The Station House Officer, Ratangarh, however, himself commenced investigation. Later on some alleged stolen ornaments and jewellery were recovered at the instance of the petitioner and other co-accused at Etawah, Allahabad and Jubalpure between 6th and 15th of August, 1962. The Government Railway Police Ratangarh then submitted a charge sheet against the present petitioner in the Court of Railway Magistrate, Jodhpur, on or about 16th November, 1962 under Section 411, Indian Penal Code.

3. The accused petitioner by his application dated 4th March, 1963 raised an objection that the Railway Magistrate has no jurisdiction to try and take cognizance of the case against the petitioner as neither the offence of theft nor the offence of receiving stolen property was committed within the local limits of his jurisdiction. The Railway Magistrate accepted the factual position but relying upon the provisions of Section 183, Criminal Procedure Code, overruled the petitioner's

objection and held that he has jurisdiction to try the case. The Additional Sessions Judge has also arrived at the same conclusion on a consideration of the combined effects of Sections 181 Sub-section (3) and Section 183, Criminal Procedure Code.

4. I have heard Mr. Bhargava for the petitioner and Mr. Amrit Raj, Assistant Government Advocate for the State.

5. The learned counsel for both the parties in spite of much search could not cite any appropriate case bearing on the controversy raised before me. Consequently, it has become necessary to decide the case on a consideration of the statutory provisions as contained in the Code of Criminal Procedure.

6. The law regarding the venue of trial of offences of receiving or retaining stolen property is to be found in illustration (b) of Section 180 and Section 181 Sub-section (3), Criminal Procedure Code. It will be proper to read them at this stage-- illustration (b) of Section 180, Criminal Procedure Code, reads as follows-

'A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.'

7. Section 181 Sub-section (3), Criminal P. C. is worded as follows:--

'The offence of theft, or any offence which' Includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.'

It is clear from these provisions that the offence of receiving or retaining stolen property can be tried by a Court within whose jurisdiction the offence of theft was committed or the offence of receiving stolen property was committed. Consequently, where there are materials to show that the offence of theft was committed within the jurisdiction of a particular court, there should be no difficulty

in holding that that court is competent to try the offence of receiving or retaining stolen property.

8. At this stage, it will be useful to refer to Section 183, Criminal Procedure Code, which reads as follows-

'An offence committed whilst the offender is In the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.'

This section is an enabling provision and confers jurisdiction upon some courts to try offences committed during journey even though not committed within the limits of their jurisdiction under conditions specified therein. The crucial question which emerges for determination is whether the said courts can also be held competent to try related offences of receiving or retaining stolen property even though they have no jurisdiction over the places where the theft was actually committed or where the related offence of receiving or retaining the stolen property was committed. Stated in other words, the question is whether Section 183, Criminal Procedure Code, should influence the interpretation of Section 180 illustration (b) and Section 181 Sub-section (3) so as to warrant an inference that the courts enabled under Section 183 to try the principal offences of theft even in the absence of territorial jurisdiction can try the related offences of receiving or retaining stolen property even In the absence of territorial Jurisdiction.

9. An examination of the provisions of Section 183, Criminal Procedure Code, shows that it has been Intended to provide, against the difficulties that might be frequently experienced in locating the exact place of the commission of an offence committed during the course of a journey as also against inconveniences resulting in some cases on insisting on a trial in a Court within whose jurisdiction the offence was actually committed. It may be permissible to state that the section embodies a sort of legal fiction by which an offence committed during the course of a journey is to be deemed to have been committed within the local-limits of certain courts and under certain conditions specified in the section. The object of

enacting Section 183, Criminal Procedure Code, being as stated earlier, it appears clear to me that the legal fiction should be limited to offences actually committed during journey and need not be extended to related offences of receiving or retaining stolen property the provisions for whose trial are contained in Section 180 illustration (b) and Section 181 Sub-section (3), Criminal Procedure Code. A plain reading of the Section 183, Criminal Procedure Code also shows that the special provisions are meant only for offences committed during journey and are not intended to be extended to other cases.

10. Similarly the language of illustration (b) to Section 180, Criminal Procedure Code, and Section 181 Sub-section (3) Criminal Procedure Code is very clear and can only mean that an offence of receiving or retaining stolen property besides being triable by a court within whose jurisdiction it is committed can also be tried by a Court within whose jurisdiction the offence of theft is committed. The place of the commission of the offence of theft must mean the actual 'place where the theft was committed and cannot mean the places deemed to be so by a legal fiction for the purposes of Section 183, Criminal Procedure Code. There appears no valid justification or reason for permitting Section 183 to control the meaning of Section 180 illustration (b) and Section 181 Sub-section (3), Criminal Procedure Code. The conclusion which must follow is that an offence of receiving stolen property can be tried either by a Court within whose jurisdiction such an offence itself was committed or by a court within whose jurisdiction the offence of theft was actually committed. A court which is enabled to try an offence of theft committed on a journey on certain other consideration even though the offence of theft was not committed within its limits cannot have jurisdiction to try an offence of receiving stolen property when the later offence was not committed within the limits of its jurisdiction.

11. The above conclusion receives support on a consideration of the matter from yet another point of view. The ordinary or general rule of jurisdiction in criminal cases based on the principle that all crime is local is that the jurisdiction to try a person for an offence depends upon the crime having been committed within the area of such jurisdiction. This is embodied in Section 177 of the Code of Criminal Procedure. It is true that the various sections following Section 177, Criminal

Procedure Code, create several exceptions to this rule but evidently these exceptions should be reasonably and properly construed and their scope should not be enlarged on analogous considerations. Consequently considerations relevant under Section 183, Criminal Procedure Code should not enter in the interpretation of Section 180 illustration (b) and Section 181 Sub-section (3), Criminal Procedure Code, and it is proper to give effect to their plain meaning and not to widen their scope.

12. In this view of the law, I am of the opinion that the offence of receiving stolen property having not been committed within the jurisdiction of the Railway Magistrate, Jodhpur and the offence of theft itself having not been committed within his jurisdiction, he has no jurisdiction to try an offence under Section 411, Indian Penal Code'

13. The revision is accepted and the proceedings before the Railway Magistrate are quashed.

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