

**Babulal Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/755155](http://sooperkanoon.com/755155)

**Court :** Rajasthan

**Decided On :** Jun-06-1961

**Reported in :** 1962CriLJ670

**Judge :** B.P. Beri, J.

**Appellant :** Babulal

**Respondent :** State

**Judgement :**

ORDER

**B.P. Beri, J.**

1. This criminal reference has been made by the Additional Sessions Judge, Jaipur City No. 2, which raises a question of jurisdiction.

2. The appellant in this case was driving a truck from Jaipur towards Harmada. This truck collided with a bicycle causing the death of one Nathu. The appellant was challaned under Section 304A of the Indian Penal Code and tried by the City Magistrate, Jaipur. The learned City Magistrate, found the appellant guilty under Section 304A of the Indian Penal Code and sentenced him to six months rigorous imprisonment. The appellant preferred an appeal before the Additional Sessions Judge, Jaipur City No. 2.

The learned Public Prosecutor raised an objection that as Harmada, the place of occurrence, is not within the jurisdiction of the Additional Sessions Judge, Jaipur City No. 2, that court 'had no jurisdiction to hear the appeal and that this appeal lay to the Sessions Judge of Jaipur District. The learned Counsel for the appellant also was of the same view. The Additional Sessions Judge Jaipur City No. 2, however, is of the opinion that he has jurisdiction to hear this appeal because the judgment was passed by the City Magistrate, Jaipur. He has, however, added that as there is conflict in views of different High Courts on this point a reference to this Court was necessary.

3. The learned Additional Sessions Judge, Jaipur City No. 2, does not indicate in his reference the decisions he had in his mind, the conflict of which he seeks to get resolved by this Court.

4. I have heard Shri Chatterji, learned Deputy Government Advocate on this reference and he supports the view that the Additional Sessions Judge Jaipur City No. 2, has jurisdiction to hear this appeal.

5. I have been able to locate three decisions on the point. The earliest is *Valia Ambu Poduval v. Emperor* ILR 30 Mad 136. The petitioners in that case were tried and convicted by the Assistant First Class Magistrate of Malabar of offences under Sections 143 and 147 of the Indian Penal Code. The offences were committed within the local limits of the jurisdiction of the Sessions Court of North Malabar. The Magistrate's head-quarters were at Calicut, within the local limits of the South Malabar Sessions Court. The petitioners appealed to the Sessions Judge, North Malabar, who rejected the appeal on the ground that the Sessions Court within whose jurisdiction the Magistrate had his headquarters was the proper appellate authority. The petitioners then appealed to the Sessions Court of South Malabar. That court also held that no appeal lay to it as the offence was committed in North Malabar. Against both these orders of rejection the petitioners presented a revision under Sections 435 and 439 of the Code of Criminal procedure.

The High Court held that the word 'situate' means fixed or located, when applied to a court it must be taken to refer to the place where the court ordinarily sits. In *Shorilal v. The State* : AIR1952 All193 , Waliullah J., of Lucknow Bench of

Allahabad High Court, approving the view taken in the Madras case held that an appeal lies to that Sessions Court within whose Jurisdiction the head-quarters of the Magistrate are ordinarily situate, whether the offence was committed within such local limits or not. Raghubar Dayal J., in *Lalta Prasad v. State* : AIR1952 All70 has taken a contrary view. No reference in his judgment has been made to the decision of Waliullah J., although the case was decided by him about a year earlier than the case which was decided by Raghubar Dayal, J.

6. Under Section 408 of the Code of Criminal Procedure Code, the expression 'court of Sessions' remains unqualified by any explanatory words. A reference to Section 435 of the Code of Criminal Procedure Code gives some indication where the word 'situate' has been used with reference to the revisional powers of the Sessions Court. The principle applicable in Section 435 regarding the revisional jurisdiction may safely be taken as a guide for the purposes of exercise of the appellate jurisdiction and in this view of the matter the view taken by the Madras High Court, with great respect, appears to be correct.

7. In my opinion, therefore, the learned Additional Sessions Judge, Jaipur City No. 2, has jurisdiction to hear this appeal because the court of the City Magistrate has its head-quarters at Jaipur and is an inferior criminal court situate within the local limits of this Court's jurisdiction. This reference is answered accordingly and the Additional Sessions Judge, Jaipur City No. 2, is directed to hear and dispose of this appeal in accordance with law.

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