

State Vs. Kishorilal and ors.

State Vs. Kishorilal and ors.

SooperKanoon Citation : sooperkanoon.com/755193

Court : Rajasthan

Decided On : Aug-01-1953

Reported in : 1954CriLJ564

Judge : Nigam, J.C.

Appellant : State

Respondent : Kishorilal and ors.

Judgement :

ORDER

Nigam, J.C.

1. On 25-10-1949 the Special Police Establishment presented a charge-sheet against Kishorilal, Kalyanmal, Radha Vallabh and Chajulal under Section 7 of Act 24 of 1946. This charge-sheet was presented in the Court of the Stipendiary Magistrate, Shri O. K. Bhagat. Evidence for the prosecution was recorded. Then on 6-2-1950 it was urged that as the territory of Pant Piploda had merged with Madhya Bharat, the Court had ceased to have jurisdiction in the case. The learned Magistrate thereupon submitted the file to the District Magistrate, Ajmer for being transmitted to the Chief Secretary, Madhya Bharat for further action. Further proceedings were taken in the Court of the Magistrate at Alote.

2. The prosecution were not satisfied that the Alote Court had jurisdiction in the matter and a motion was made before the High Court of Madhya Bharat. The

Hon'ble the Chief Justice passed an administrative order on 16-8-1950 directing that the file be sent back for trial at Ajmer. As this was an administrative order, the prosecution moved for a judicial order. The judicial order was passed in 'Cri. Revn. No. 79 of 1951 D/-8-2-1952 (Madh B.) (A). The matter was again considered in 'Cri (Misc) Case No. 74 of 1952 (Madh-B.) (B) by a Division Bench of the Madhya Bharat High Court and the learned Judges were pleased to order as under:

We are of opinion that the file should be sent back to the Ajmer Court and there the Ajmer authorities will take steps before the Judicial Commissioner to have the order of the First Class Magistrate and the District Magistrate set aside or if the Judicial Commissioner is also of opinion that the Ajmer Court had no jurisdiction after the transfer of Pant Piploda State to Madhya Bharat, then a fresh complaint will have to be filed in the Alote Court.

3. I may mention that in the intervening period, the prosecution had filed a criminal revision in the Court of the District Magistrate, Ajmer (Criminal Revision No. 11 of 1950J. The learned District Magistrate rejected the revision by his order dated 13-12-1950.

4. It is admitted that no revision application was filed against the District Magistrate's order rejecting the revision application filed by the prosecution against the learned Magistrate's order directing that the file be forwarded to the Madhya Bharat Court for disposal.

5. The learned Special Public Prosecutor has relied on - Emperor v. Ram Narain Singh 34 All 118 (C) for the contention that the Ajmer Court has jurisdiction in the matter. The learned Counsel for the accused has not shown me any authority to the contrary. Relying on this ruling I hold that it is the Ajmer Courts that have jurisdiction in the matter and not the Courts in Madhya Bharat.

6. Now the State has filed this revision under Section 561A, Criminal P. C. read with Section 435 of the same Code. The only question for my determination is whether this belated application should be considered at this stage. Normally revision applications are not entertained if filed more than 90 days after the order impugned. This particular case, however, is rather peculiar. The prosecution have

at no time intended to drop the proceedings against the accused persons. They have been, ever since the transfer of the case to the Court at Alote, making attempts to get the case re-transferred to Ajmer. Of course, there is no reasonable explanation why a revision application was not moved in this Court and then a stay, pending disposal of the proceedings before the Hon'ble Madhya Bharat High Court, asked for.

7. I have also to keep in view the directions in the judgment, 'in Cri. (Misc.) Case No. 74 of 1952 D/- 4-12-1952 (Madh-B.) (B). Then the learned Judges directed that steps be taken before this Court to have the order of the First Class Magistrate and the order of the District Magistrate set aside and if this Court was also of opinion that the Ajmer Courts had no jurisdiction, then a fresh complaint was to be filed in the Alote Court. It is clear that it was never the intention that the proceedings should be dropped. I have already held that the Ajmer Courts have jurisdiction in the matter. As such, it is necessary to set aside the order of the learned Magistrate dated 6-2-1950 and the order of the learned District Magistrate? dated 13-12-1959 in order to give effect to the order in - 'Cri (Misc.) Case No. 74 of 1952, D/-4-12-1952 (Madh-B.) (B) which is an order under the Code of Criminal Procedure.

8. Accordingly, I set aside the order passed by Shri G. K. Bhagat on 6-2-1950 and the order of the learned District Magistrate dated 13-12-1950 and direct that further proceedings in the case be taken by the District Magistrate Ajmer or any Subordinate Stipendiary Magistrate to whom the proceedings may be entrusted by him. There would be no objection to the further proceedings in the case being taken by the same Magistrate who heard the case earlier.

9. The learned Counsel for the accused has urged that a trial at Ajmer would mean unnecessary harassment to the accused. The case is also very old. I, therefore, direct that it be disposed of as expeditiously as possible and that every unnecessary adjournments should be avoided, A very early date should be fixed in the case.