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Suraj Mal Vs. the State

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Court : Rajasthan

Decided On : May-29-1953

Reported in : AIR1954Raj303; 1955CriLJ75

Judge : Modi, J.

Acts : Rajasthan High Court Rules - Rule 63

Appeal No. : Criminal Revn. for bail against order of sessions Judge, Bhartpur

Appellant : Suraj Mal

Respondent : The State

Advocate for Pet/Ap. : Shyambehari Lal, Adv.

Judgement :
ORDER

Modi, J.

1. This is a revisional application by the accused Surajmal against the order of the learned Sessions Judge, Bharatpur, dated the 13th May, 1953, upholding the conviction of the accused under Section 323, I. P. C. The accused stanas sen tenced to two months' rigorous imprisonment and a fine of Rs. 100/- and in default, to a further rigorous imprisonment for one month. A bail application has also been filed on behalf of Surajmal.

2. This application, relating as it does to a case arising in the Jaipur Division, should have been filed before the Jaipur Bench of this Court but has instead been filed before this Court at Jodhpur. The important question for determination before me at this stage is whether this Court has jurisdiction to entertain it.

3. Learned counsel for the petitioner urges that under the arrangements made for disposal of business during the long vacation there is no Judge sitting at Jaipur at the moment and that as vacation Judge I am empowered to dispose of work both relating to the Jodhpur and Jaipur Benches and as such I must entertain this application even sitting at Jodhpur as the matter is urgent and does not brook delay. Learned counsel has relied on Rule 63 of the Rules of this Court.

4. I may set out a few salient facts relating to the constitution of, and distribution of work in, this High Court in so far as they have aRearing on the decision of the question before me. Soon after the formation of the new State of Rajasthan, by a number of stages into which it is not necessary to enter here, a High Court of Judicature for Rajasthan was created and established, by and under the Rajasthan High Court Ordinance (No. XV) of 1949. This Ordinance came into force on 29th of August, 1949. Section 10 of the Ordinance lays down that the High Court shall sit at Jodhpur and such other place or places, if any, as the Rajpramukh may from time to time appoint either permanently or for a specified period. By notification No. 155/J.D./ U.S.R. dated 25th August, 1949, the High Court of Rajasthan was inaugurated at Jodhpur on 29th August, 1949. By a further notification No. 155A/J.D./U.S.R. of the same date, His Highness the Rajpramukh directed that until furtherorders the High Court of Judicature for Rajas-than will also sit at Jaipur to dispose of the work arising at Jaipur and Kotah Divisions. Thiswas followed by a subsequent notification dated the 7th November, 1952, published in the Rajasthan Gazette dated 22nd November, 1952, where by His Highness the Rajpramukh directed that the words 'to dispose of the work arising in the Jaipur and Kotah divisions' be deleted in the aforesaid notification No. 155A of 25th August, 1949, and it was further provided that the necessary allocation of work shall be made by the Chief Justice under Section 42(2) of the Rajasthan High Court Ordinance. Section 42(2) of the Ordinance provides, inter-alia, that the Chief Justice shall be responsible for the distribution and conduct of the business of the

High Court. In exercise of the powers under the above section the Hon'ble Chief Justice by notification No. 50, Gen. dated 26th November, 1952, published in the Rajasthan Rajpatra dated 6th December, 1952, has directed that (a) all cases arising in the revenue divisions of Bikaner, Jodhpur and Udaipur (except such as may by special order of the Chief Justice be transferred to Jaipur Bench) shall be disposed of by the Court at Jodhpur, and (b) all cases arising in the revenue divisions of Jaipur and Kotah (except such as may by special order of the Chief Justice be transferred to the Court at Jodhpur) shall be disposed of by the Jaipur Bench.

5. It follows from the notifications set outabove that the present case which has arisen in the revenue division of Jaipur can be disposed ofonly by the Jaipur Bench of this High Court, that is, a Bench sitting at Jaipur, unless suchcase has by special order of the Hon'ble Chief Justice been transferred to the Court at Jodhpur. There is no question of the exception being applicable to the case before me as there is no special order of the Hon'ble Chief Justice transferring this case to the Court at Jodhpur. I have, therefore, arrived at the conclusion that in ae-cordance with the provisions mentioned above the Court sitting at Jodhpur cannot entertain and dispose of this case and that it is only a Bench sitting at Jaipur which has jurisdiction to entertain and decide it.

6. The further question that remains to determine is whether the above position is affected inany way by rule 63 of the Rules of this Court and by the arrangements ordered by the Hon'ble Chief Justice for the transaction of work of our High Court for the period of the vacati8n. The relevant portion of Rule 63 reads as follows:

'(1) Criminal work shall continue to be dealt with during the long vacation by such Judges as may be appointed for the purpose by the Chief Justice.

(2) Subject to any general or special order of the Chief Justice, Vacation Judges shall, in the absence of the Chief Justice, exercise jurisdiction at Jodhpur and Jaipur, as the case may be, in connection with the arrangement of Benches, listing of cases and other like matters.'

The above rule, as I read it, does not contemplate anything contrary to what I have stated above. In fact that rule and the arrangements made for the disposal of work during the period of the vacation direct that each Vacation Judge shall sit at Jodhpur for part of the vacation and at Jaipur for the other part. It is no doubt true that it is left to the discretion of the Judge sitting at Jodhpur that he may also sit at Jaipur when considered necessary by him and similarly a Judge sitting at Jaipur for part of the vacation may also sit at Jodhpur in the same manner. But it is implicit in this arrangement, as I understand the matter, that while a Judge sits at Jodhpur he disposes of the work arising in the area allotted to the Court at Jodhpur and likewise a Judge sitting at Jaipur must dispose of work arising in the revenue divisions of Jaipur and Kotah. These arrangements do not permit that a Judge, while sitting at Jodhpur, could, during the period of the vacation, entertain work relating to the Jaipur Bench although as Vacation Judge he is permitted to sit at both Jodhpur and Jaipur. I may mention that any other view would create any amount of confusion in the disposal of work and in the sequel lead to unnecessary complications and difficulties. Now it is possible that during the period of vacation this may cause some hardship in cases involving short terms of imprisonment but this is inevitable in the circumstances under which our High Court has to function at two places. In any case, the argument of hardship does not and cannot afford any justification in my judgment for entertaining cases disposable by the Jaipur Bench at Jodhpur and vice versa even during the long vacation unless the Hon'ble Chief Justice may, by special order, transfer a case from one place to the other.

7. I may add that I have informed learned counsel for the petitioner that I am sitting at Jaipur next week from the 3rd to 5th June, 1953, and that it is open to him to file the revision application and any application for bail there when it would be duly considered and disposed of by me at that place.

8. In the result I hold that sitting at JodhpurI have no jurisdiction to entertain the petitioner's present revision application, and herebydirect that it be returned to him for presentation to the proper Bench of this Court.

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