

Sanjay Kothari and ors. Vs. State of Rajasthan and anr.

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Court : Rajasthan

Decided On : May-01-2008

Reported in : RLW2009(1)Raj154

Judge : G.S. Sarraf, J.

Appellant : Sanjay Kothari and ors.

Respondent : State of Rajasthan and anr.

Disposition : Petition dismissed

Judgement :

G.S. Sarraf, J.

1. This criminal misc. petition under Section 482 Cr. P.C, is directed against the order dated 16.5.2007 passed by Civil Judge (Junior Division) and Judicial Magistrate, First Class, Vijay Nagar (Ajmer) whereby he has rejected the application of the petitioners challenging his jurisdiction.

2. Learned Counsel for the petitioners submits that no part of cause of action has arisen within the jurisdiction of Civil Judge (Junior Division) and Judicial Magistrate, First Class, Vijay Nagar and therefore, that Court does not have territorial jurisdiction. He has placed reliance on and 2006 (2) R.C.C. 837.

3. Learned Counsel for the respondent No. 2 has supported the impugned order.

4. Section 177 - 186 deal with venue and place of trial. Section 177 reiterates the well-established common law rule that the proper and ordinary venue for the trial of a crime is the area of jurisdiction in which, on the evidence, the facts occur which constitute the crime. There are several exceptions to this general rule and some of them are, so far as the present case is concerned, indicated in Section 178 Cr. P.C. Section 178 Cr. P.C. reads as under:

Section 178 : PLACE OF ENQUIRY OR TRIAL:

(a) When it is uncertain in which of several local areas an offence was committed, or

(b) Where an offence is committed partly in on local area and partly in another, or

(c) Where an offence is continuing one, and continues to be committed in more local areas than one, or

(d) Where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

5. Section 181(4) Cr. P.C. provides that any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

6. In the instant case, it has been alleged in para 12 of the complaint that the petitioner No. 1 pressurized the father of the complainant to fulfill the demand at Vijay Nagar and in para 19 it has been alleged that when the complainant demanded her stridhan at Vijay Nagar then the petitioners Nos. 1 and 2 said that after the marriage the articles belonged to them and thus impliedly refused to return the same. It is, therefore, clear that the articles were required to be returned at Vijay Nagar.

7. It is settled law that where the offence consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any

of such local areas as envisaged under Section 178 Cr.P. C.

8. In the circumstances, therefore, Civil Judge (Junior Division) and Judicial Magistrate, First Class Vijay Nagar has jurisdiction to inquire into and try the case.

9. There is thus no merit in the petition. The Criminal Misc. Petition stands dismissed.

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