

**P.K. Roy Vs. the State**

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**Court :** Kolkata

**Decided On :** Dec-08-1954

**Reported in :** AIR1955Cal277,1955CriLJ791,59CWN300

**Judge :** Guha Ray and ;Sen, JJ.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 83, 93A, 186 and 496; ;Indian Penal Code (IPC) - Section 420

**Appeal No. :** Criminal Revn. No. 556 of 1954

**Appellant :** P.K. Roy

**Respondent :** The State

**Advocate for Def. :** J.M. Banerjee, Adv.

**Advocate for Pet/Ap. :** Ajit Kumar Dutta and ;Prasun Chandra Ghose, Adv.

**Judgement :**

**Sen, J.**

1. The petitioner has prayed that the order of the Chief Presidency Magistrate, Calcutta, dated 15-4-1954, directing the petitioner to furnish bail of Rs. 7000/- in connection with a case under Section 420, I. P. C., pending in the Court of the City Magistrate, Srinagar, may be set aside.

2. It appears that the case under Section 420, I. P. C., was started against the petitioner in the court of the City Magistrate of Srinagar and the Magistrate issued a warrant for the arrest of P.K. Roy whose address is at 91 Theatre Road, Calcutta. This warrant was sent for execution to the Chief Presidency Magistrate of Calcutta through the Government of West Bengal.

The learned Chief Presidency Magistrate purported to execute the warrant under Section 93A(3), Criminal P.C., which provides that when an internal Court has received for service or execution a summons to, or a warrant for the arrest of, an accused person issued by an external Court, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another internal Court for service or execution within the local limits of its jurisdiction and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 85 and 86. It is clear therefore that the internal Court has jurisdiction to execute the warrant within the limits of its jurisdiction.

In the present case the address of the accused petitioner being 91 Theatre Road, the warrant had to be executed at that place, 91 Theatre Road is outside the limits of the Presidency Town and therefore outside the limits of the jurisdiction of the Chief Presidency Magistrate, Calcutta. It must be held therefore that under Section 93A(3), Criminal P.C., the learned Chief Presidency Magistrate had no power to get the warrant executed and to take any subsequent action by accepting bail for the appearance of the accused before the City Magistrate of Srinagar.

3. Mr. J.M. Banerjee appearing for the State has referred to S. 83, Criminal P. C., and has urged that the Chief Presidency Magistrate has jurisdiction to forward the warrant for execution to the Commissioner of Police and that the warrant was executed within the jurisdiction of the Commissioner of Police because the Commissioner of Police has jurisdiction not only over the Presidency Town but also over the suburban areas of Calcutta. Section 83, Criminal P. C., however applies to a case where the warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same and the issuing Court may direct the same to the Commissioner of Police or certain other authorities specified in the

section. The jurisdiction therefore would be in the issuing Court and not in the Chief presidency Magistrate as internal Court on receipt of the warrant for execution issued by an external Court. Thus S. 83 Criminal P. C., in our opinion, has no application to the facts of the case.

4. Mr. Banerjee also referred to Section 186 Criminal P. C., but that relates to the power to issue warrant for offences committed beyond the local jurisdiction. Here the Chief Presidency Magistrate did not purport to issue a warrant for an offence committed beyond his local jurisdiction and therefore Section 186 Criminal P. C., has no application at all.

This case is governed by the provisions of Section 93 (A) (3) Criminal P. C., and that being the case it must be held that the learned Chief Presidency Magistrate had jurisdiction to get the warrant executed within the local limits of his jurisdiction and he had not the power to get it executed through the Commissioner of Police in a place outside his jurisdiction. Accordingly it must be held that the warrant was illegally executed and therefore the subsequent order of the learned Chief Presidency Magistrate directing the accused petitioner to furnish bail for appearance before the City Magistrate, Srinagar, was also bad. Accordingly this order must be set aside.

5. This Rule is therefore made absolute and the order complained of is set aside.

**Guha Ray, J.**

6. I agree.

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