

(1999) 09 AHC CK 0213

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 2898 of 1999

Dilip Chaturvedi

APPELLANT

Vs

Star Paper Mills Ltd. and Others

RESPONDENT

Date of Decision : 21-09-1999

Acts Referred:

Companies Act, 1956 — Section 630

Citation : (2000) 37 CLA 271 : (2000) 99 CompCas 262 : (2000) 1 CompLJ 42

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Advocate : Kamal Kishor Mishra, for the Appellant; R.P. Agarwal and A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

B.K. Rathi, J.—I have heard Sri Kamal Kishor Mishra, learned counsel for the applicant, R.P. Agarwal, learned counsel for opposite party No. 1 and the learned A. G. A. for opposite parties Nos. 2 and 3.

2. Opposite party No. 1 filed a complaint against the applicant u/s 630 of the Companies Act, 1956, on the allegation that the applicant was the employee of opposite party No. 1 and was given quarters in lieu of the same. That the services of the applicant have been terminated from May 23, 1999, but he has not vacated the quarters. That, therefore, the complaint u/s 630 of the Companies Act was filed. The applicant raised two objections before the Special Chief Judicial Magistrate, Meerut, where the complaint is pending.

3. Firstly, he has alleged that the registered office of the company is at Calcutta and, therefore, the Calcutta High Court or the courts subordinate to it only have jurisdiction to try the complaint. The second contention is that there is an arbitration clause and, therefore, the complaint is barred. The contentions of the applicant were repelled by the Special Chief Judicial Magistrate, Meerut, and the revision filed against that order by the applicant was rejected by the IXth

Additional Sessions Judge, Meerut. The applicant therefore, approached this court.

4. It is contended that the registered office of opposite party No. 1-company is at Calcutta. Therefore, it is argued that according to Section 2(11) the complaint could be filed in a court subordinate to the High Court of Calcutta. Both the courts repelled the contention for the reason that this section does not apply to a criminal complaint which can be filed in the court having territorial jurisdiction according to the Criminal Procedure Code. The property in dispute is situated at Saharanpur and the cause of action also arose at Saharanpur and, therefore, the contention that the Special Chief Judicial Magistrate, Meerut, has no jurisdiction to try the case cannot be accepted.

5. As regards the second contention, it does not require a detailed discussion. There is an arbitration clause but that is regarding the dispute relating to the services of the applicant and not regarding the vacation of the house. Apart from this, the criminal proceedings cannot be barred by an arbitration agreement. Therefore, the complaint u/s 630 of the Companies Act is not barred by the arbitration clause.

6. Learned counsel for the applicant has also contended before me that the liability is of civil nature and complaint u/s 630 of the Companies Act is not maintainable. In support of the argument, learned counsel for the applicant has referred to the case of Jagdish Chandra Nijhawan v. S.K. Saraf [1999] 95 Comp Cas 48 : [1999] SCC 20. I have carefully gone through the law laid down in that case.

7. There was an agreement and the Hon'ble Supreme Court observed that the appellant in that case joined the services mainly because he was offered a flat in Triveli Court. The employment was given for five years and there was a further agreement that in the case of termination of service at the instance of the company, the employee/his wife shall continue to enjoy rent free accommodation during their lifetime. In the light of this argument, it was held that the liability is of civil nature and a suit for eviction was also pending. This authority has, therefore, no help to the facts of the case.

8. The petition is, therefore, without merit and is dismissed.