
(1977) 02 AHC CK 0054

In the Allahabad High Court

Case No : Criminal Misc. Application No. 5148 of 1976

Ram Pratap Narain Sinha

APPELLANT

Vs

Munsif Magistrate (East) and Another

RESPONDENT

Date of Decision : 28-02-1977

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 181, 200, 250, 482
Penal Code, 1860 (IPC) — Section 406, 409, 468, 477A

Citation : (1977) ACR 341

Hon'ble Judges : K.C. Agrawal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K.C. Agrawal, J.—This is an application u/s 482 Code of Criminal Procedure for quashing the proceedings of case No. 181 of 1976 pending in the Court of the Chief Judicial Magistrate, Allahabad.

2. It appears that a complaint was filed by M/s. A. H. Wheeler Company Private Limited, 15 Elgin Road Allahabad (briefly stated as the Company) against the applicant for the offences under Sections 406, 409, 468 and 477A of the Indian Penal Code. The applicant Ram Pratap Narain Sinha was an agent of the Company appointed for the purposes of carry on sale of books, magazines etc. at the railway platform of Barauni Railway station. In accordance with the terms settled between the applicant and the company, the applicant was to remit the entire sale proceeds to the head office of the Company at Allahabad and also to render accounts every month to the Company at Allahabad. According to the allegations made in the complaint as the applicant did not send the accounts from August 1974, therefore, the accounts of the applicant were checked on 21-1- 1975. On checking it was found that the applicant had committed criminal mis-appropriation of the Company's money to the tune of Rs. 6,905.00 from the sale proceeds which he did not pay to the Company. It was also found that the applicant had also not submitted the sale accounts to the Company as he was

obliged to do. Hence the complaint was filed against the applicant under the aforesaid provisions. The Munsif Magistrate took the statement of the complainant under Sections 200 and 250 Code of Criminal Procedure and thereafter found that a prima facie case existed against the applicant. Hence he summoned the applicant u/s 409 fixing 3-8- 1976. It, however, appears that although the applicant filed an appearance through a counsel before the Munsif Magistrate, but in the meantime he filed the present application on 13-8-1976 in this Court for quashing the proceedings. The sole ground taken in the application is that the complaint filed by the Company at Allahabad was not maintainable inasmuch as no offence has been committed by the applicant within the jurisdiction of Courts at Allahabad or U.P.

3. Controverting the allegations made in this application a counter-affidavit was filed by opposite party No. 2 stating that in terms of the agreement the applicant was obliged to remit the sale proceeds as well as sent the accounts to the Company at Allahabad and since the applicant did not do to, the complaint could be lodged at Allahabad under sub-Section (4) of Section 181 Code of Criminal Procedure.

4. I have examined the relevant provisions of the Code of Criminal Procedure but I am unable to hold at this stage that the complaint filed by the opposite party No. 2 was not maintainable. Sub-Section (4) of Section 181 clearly lays down that any offence of criminal misappropriation or of criminal breach of trust may be enquired 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. In the instant case in the complaint filed by the opposite party No. 2 on behalf of the Company it has been clearly mentioned in paragraph 6 that the applicant was liable to render accounts to the Company at Allahabad. Accordingly, sub-Section (4) of Section 181 Code of Criminal Procedure was attracted. Hence, the plea taken by the applicant cannot be entertained.

5. In the result, the application fails and is rejected. The stay order dated 13-8-1976 is vacated.