
(2005) 07 AP CK 0015

In the Andhra Pradesh High Court

Case No : Criminal Revision No. 1151 of 2005

Srimanthula Subrahmanyam Achari (A2) and Others

APPELLANT

Vs

The State of A.P.

RESPONDENT

Date of Decision : 20-07-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 11, 13, 14, 177, 18
Penal Code, 1860 (IPC) — Section 498A

Citation : (2005) 3 ALT(Cri) 302

Hon'ble Judges : G. Yethirajulu, J

Bench : Single Bench

Advocate : P. Gangarami Reddy, for the Appellant; Public Prosecutor, for the Respondent

Judgement

G. Yethirajulu, J.—This revision is filed by the accused in C.C.172 of 2003 on the file of the Special Judicial Magistrate of First Class for trial of Prohibition and Excise Cases, Nellore. They were charged for the offence u/s 498A I.P.C. During the pendency of the case, the revision petitioners filed CrI.M.P.No.26 of 2005 u/s 177 and 240 Cr.P.C. praying to transfer the case to the proper Court on the ground that the said Court has no territorial jurisdiction to try the case. The learned Magistrate by observing that since the investigation was done by the Mahila Police at Nellore, which has the jurisdiction over the entire District the Court has jurisdiction to entertain the case and to try the same.

2. The learned counsel for the petitioner submitted that even though investigation was done by the Women Police, Nellore which has jurisdiction over the entire District the Court which has the territorial jurisdiction over the area where the offence took place is the competent Court to try the offence. Therefore, the lower Court erred in dismissing the application without considering whether the said Court has the territorial jurisdiction to try the offence which took place within the territorial jurisdiction of another Court.

3. The learned Additional Public Prosecutor also submitted that it could be

appropriate for the Court to examine as to where the offence took place and whether the place of offence comes within the territorial jurisdiction of the said Court and if the place of offence is within the jurisdiction of the lower Court it is competent to try the offence, otherwise, it has to make a proposal to the Session Court to transfer the said case to the Court which has the territorial jurisdiction to try the offence.

4. Section 11 of Cr.P.C. deals with the establishment of Courts of Judicial Magistrates which reads as follows:

"(1) In every district (not being metropolitan area), there shall be established as many Courts of Judicial Magistrates of the first class and of the second class and at such places, as the State Government may, after consultation with the High Court, by notification, specify. Provided that the State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other Court of Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court."

5. Section 14 of Cr.P.C. deals with the local jurisdiction of the Judicial Magistrates and it reads as follows:

(1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits to the areas within which the Magistrates appointed u/s 11 or u/s 13 may exercise all or any of the powers with which they may respectively be invested under this Code.

"Provided that the Court of a Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established".

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

(3) Where the local jurisdiction of a Magistrate, appointed u/s 11 or Section 13 or Section 18, extends to an area beyond the district or the metropolitan area, as the case may be in which he ordinarily holds Court, any reference in the Code to the Court of Session, Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall, in relation to such Magistrate, throughout the area within his local jurisdiction, be construed, unless the context otherwise requires, as a reference to the Court of Session, Chief Judicial Magistrate, or Chief Metropolitan

Magistrate, as the case may be, exercising jurisdiction in relation to the said district or metropolitan area".

6. In pursuance of the above provisions the High Court of A.P. issued a notification conferring territorial jurisdiction on every Magistrate. The lower Court was also conferred with territorial jurisdiction over a specific area. It cannot try the offences occurred beyond its territorial jurisdiction, unless the cases pertaining to other areas are transferred to the said Court by the Sessions Court, either on administrative grounds or at the instance of parties or on account of change of territorial jurisdiction.

7. The learned counsel for the petitioner submitted that A-1 who is the husband of the de facto complainant lived with the complainant at Venkatagiri and as the de facto complainant alleged that the accused caused harassment to her at Venkatagiri, the Judicial Magistrate of First Class, Venkatagiri has the jurisdiction to try the offence.

8. In the light of the submissions made by the learned counsel for the petitioners, it would be appropriate for the lower Court to examine as to where the offence took place and whether the place of offence comes within its territorial jurisdiction, if not to send a proposal to the Sessions Court to transfer the said case to the appropriate Court within whose territorial jurisdiction the offence took place. Simply because the Mahila Police, Nellore has jurisdiction over the entire District the learned Magistrate is not right in claiming the jurisdiction to try the case, when he has no territorial jurisdiction to try the offence.

9. The order of the lower Court dated 22-2-2005 is set aside. Revision Petition is accordingly disposed of.