

(1979) 08 SC CK 0010

In the Supreme Court Of India

Case No : Criminal Appeal No. 120 of 1973

Surender Kumar Aggarwal

APPELLANT

Vs

Satyapal Varshneya

RESPONDENT

Date of Decision : 07-08-1979

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 200

Citation : (1981) CriLJ 740 : (1979) 4 SCC 750 : (1980) SCC(Cri) 172 : (1979) 11 UJ 645

Hon'ble Judges : R. S. Sarkaria, J;O. Chinnappa Reddy, J;D. A. Desai, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. This judgment shall dispose of Criminal Appeals 180-A, 180-B, 180 C, 180 D and 180-E of 1973. They arise out of common facts: Satyapal Varshneya, respondent herein, a publisher and bookseller of Chandni Chowk, Delhi made complaints 12, in the Court of Sub Divisional Magistrate, Pahargang, Delhi against Surender Kumar Aggarwal appellant herein, resident of Allahabad, Om Prakash Sharma, resident of Meerut and one other alleging the commission of an offence u/s 63 of the Copyright Act 1957. The Magistrate examined the complainant u/s 200, Criminal Procedure Code and thereafter issued summonses to the accused. The accused persons appeared before the Magistrate and made an application u/s 177, Criminal Procedure Code alleging that the Magistrate had no territorial jurisdiction to hear the complaint as the alleged offences were not committed within the limits of the jurisdiction of the Magistrate. The Magistrate overruled the objections. Sunder Kumar Aggarwal and his coaccused filed revision petitions (414 to 418 of 1971) in the Court of Session. The Revisions were heard by the Additional Sessions Judge who reported these cases to the High Court of Delhi with the recommendations that since the material so far on record did not disclose that the alleged offence was committed within the jurisdiction of the Magistrate, the orders of the Magistrate be quashed and the complaints dismissed. In the alternative, he recommended that the trial court be

direct to treat the objections raised by the petitioner as a preliminary one and dispose it of on merits after affording an opportunity to the complainant to adduce further evidence in the matter.

2. A learned Judge of the High Court by a common judgment dated March 9, 1972 accepted this alternative recommendation of the Additional Sessions judge, and disposed of the Revisions accordingly.

3. Against those orders of the High Court, Surender Kumar Aggarwal has filed these appeals by special leave.

4. Learned Counsel for the appellant submits that subsequent to the High Court decision under appeals, the Civil Court has, in a suit u/s 55 of the Copyright Act, for rendition of accounts filed by the respondents, herein against the appellant, held that the respondent had no copy-right. A copy of that judgment is also sought to be produced.

5. This is an entirely new plea. In the Courts below the objection taken by the appellant was that the Magistrates Delhi had no territorial jurisdiction. But now the stand taken is that the complaint is foredoomed to failure because the complainant has DO copyright. We do not think it proper to go into this new plea. It marks a complete departure from the grounds of appeal adumbrated in the Special Leave Petition. We therefore dismiss these appeals subject to the observation that the appellant shall be at liberty to raise this new plea before the Magistrate.