

(2003) 09 AHC CK 0314

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 7647 of 1986

Yukti Bhadra Dixit

APPELLANT

Vs

Jagdish Panthi and Another

RESPONDENT

Date of Decision : 24-09-2003

Acts Referred:

Copyright Act, 1957 — Section 63
Criminal Procedure Code, 1973 (CrPC) — Section 177, 482
Penal Code, 1860 (IPC) — Section 467, 469, 500

Citation : (2004) 1 ACR 274

Hon'ble Judges : Onkareshwar Bhatt, J

Bench : Single Bench

Advocate : S.B. Pandey, for the Appellant; D.S.P. Singh and A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Onkareshwar Bhatt, J.—By means of this application u/s 482 of the Code of Criminal Procedure, hereinafter referred to as the Code, prayer for quashing the orders dated 24.4.1984 and 5.11.1984 passed by the then Judicial Magistrate, Mirzapur in Criminal Case No. 465 of 1985 as well as the order dated 16.4.1986 of the then Additional Sessions Judge, Mirzapur passed in revision has been made.

2. Sri S. B. Pandey, learned Counsel for the applicant, Sri D. S. P. Singh, learned Counsel for Opposite Party No. 1 and learned A.G.A. for the State have been heard.

3. The Opposite Party No. 1 had filed a complaint against the applicant accused and three others. In the said complaint by order dated 24.4.1984 Magistrate took cognizance of the offence under Sections 467, 469 and 500, I.P.C. and Section 63 of the Copyright Act. The applicant appeared before the Magistrate and filed objections that Court at Robertsganj has no territorial jurisdiction to try the complaint. By order dated 5.11.1985 the objections were rejected. The said

order was confirmed partly in revision also. The revisional court held that offences under Sections 467 and 469, I.P.C. are not triable by the Court at Robertsganj. The revisional court held that in respect of offences u/s 500, I.P.C. and Section 63 of the Copyright Act trial can proceed in Robertsganj court.

4. The Opposite Party No. 2, the complainant, has alleged that he is a poet and has composed a song which was broadcast from All India Radio. He claims that his poem is a literary work. The allegation is that he heard the above poem in a gramophone record at Robertsganj where he resides. In the record, the applicant is mentioned as lyric of the poem, Miss Anita Nath was shown to be its singer and Charanjeet Ahuja was shown to have composed the music. The allegation is that reproduction of the poem on gramophone record infringes his copyright. It is further alleged that by circulation of above record, reputation of the complainant was lowered down in his friend circle. The courts below have held that the offence u/s 500, I.P.C. was complete at Robertsganj where the complainant was actually defamed and where record was also sold and played. It was at Robertsganj where reputation of the complainant was lowered down. The courts below have rightly held that the offence u/s 500, I.P.C. was actually committed at Robertsganj. The courts below have held that infringement of copyright also took place at Robertsganj where the complainant heard the reproduction of his literary work. The order of the revisional court has not been challenged by the complainant. The ordinary place of enquiry and trial is by the Court within whose local jurisdiction the offence was committed, as provided u/s 177 of the Code.

5. In the above facts and circumstances, the order of the revisional court dated 16.4.1986 by which the Court at Robertsganj has been held to have jurisdiction for trying the case for the offences u/s 500, I.P.C. and Section 63 of the Copyright Act calls for no interference.

6. The application u/s 482 of the Code is accordingly dismissed. Interim order dated 29.7.1986 is vacated.