

Surender Kumar Aggarwal

Vs

Satyapal Varshneya

Criminal Appeals Nos. 180-A to 180-E of 1973

(R. S. Sarkaria, D. A. Desai, O. Chinnappa Reddy JJ)

07.08.1979

JUDGMENT

1. This judgment shall dispose of Criminal Appeals Nos. 180-A, 180-B, 180-C, 180-D and 180-E of 1973. They arise out of common facts :

2. Satyapal Varshneya, respondent herein, a publisher and bookseller of Chandni Chowk, Delhi made complaints in the Court of Sub-Divisional Magistrate, Paharganj, 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 under Section 63 of the Copy-right Act 1957. The Magistrate examined the complainant under Section 200, Criminal Procedure Code and thereafter issued summonses to the accused. The accused persons appeared before the Magistrate and made an application under Section 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. Surender Kumar Aggarwal and his co-accused filed revision petitions (414 to 418 of 1971) in the Court of Sessions. The revisions were heard by the Additional Sessions Judge who reported these cases to the High Court of Delhi with the recommendation, 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 directed to treat the objection 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.

3. 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.

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

5. Learned counsel for the appellant submits that subsequent to the High Court decision under appeal, the Civil Court has, in a suit under Section 55 of the Copyright Act, for rendition of accounts filed by the respondent herein against the appellant, held that the respondent had no copyright. A copy of that judgment is also sought to be produced.

6. This is an entirely new plea. In the courts below the objection taken by the appellant was that the Magistrate, Delhi had no territorial jurisdiction. But now the stand taken is that the complaint is

foredoomed to failure because the complainant has no 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.

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