

Rattan Lal and Others

Vs

State of Rajasthan and Others

Criminal Appeals No. 569-570 of 1979

(O. Chinnappa Reddy, A.P. Sen, Baharul Islam JJ)

26.07.1981

JUDGMENT

1. These four appeals are directed against an Order of the High Court of Rajasthan under Section 432 of the Code of Criminal Procedure quashing the proceedings in Criminal Case No. 543 of 1977 in the Court of Munsiff and Judicial Magistrate, Beswar.
2. Two questions were raised before the High Court. The first was that the Court had no territorial jurisdiction to entertain the case. The second was that there was no dishonest intention at the time when the representation is said to have been made. Through the High Court appeared to be inclined to hold that the Court had no territorial jurisdiction it preferred to rest its decision on the second ground. The High Court took the view that the case appeared to be of a civil nature and that the respondent could not be said to have had a dishonest intention from the beginning.
3. We think that the High Court was wrong in going into the question of initial dishonest intention at that stage. It was for the magistrate to go into the question whether there was a prima facie case to frame a charge. The High Court appears to have practically usurped the function of the magistrate.
4. We think that the only proper course for us to take is to set aside the judgment of the High Court and direct the Magistrate to proceed with the case and deal with it in accordance with law.
5. We have deliberately refrained from reciting the facts and expressing any opinion as it may have the effect of prejudicing the parties.
6. The appeals are allowed.

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