

(2012) 4 ALD 59

Andhra Pradesh High Court

Case No: C.M.A. No. 495 of 2011

Chadalawada Krishna
Murthy

APPELLANT

Vs

Konduru Ramakrishna
Raju

RESPONDENT

Date of Decision: Sept. 30, 2011

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 27 Rule 5A, 19, 20
- Criminal Procedure Code, 1973 (CrPC) - Section 156(3)
- Penal Code, 1860 (IPC) - Section 420

Citation: (2012) 4 ALD 59

Hon'ble Judges: N.V. Ramana, J; K.S. Appa Rao, J

Bench: Division Bench

Advocate: Subba Reddy S, for the Appellant;

Final Decision: Allowed

Judgement

K.S. Appa Rao, J.

The present appeal is filed against the order dated 15.3.2011 passed in CF No.7534 of 2010 (unnumbered suit) on the file of the III Additional District Judge, Tirupati. The appellant herein is the plaintiff in the said unnumbered suit For the sake of convenience, the parties hereinafter referred to as they are arrayed before the trial Court. The averments of the plaint in nutshell read as follows:

The plaintiff filed the suit for a decree and judgment in his favour against the defendant directing him to pay a sum of Rs.50,00,000/- towards damages. According to the plaintiff, the defendant filed a private complaint against him before the Judicial Magistrate of First Class, Sullurpet and the Magistrate forwarded the said complaint to the S.H.O. of Naidupet Police Station, Sri Potti Sriramulu Nellore District, who in turn registered a case against the plaintiff for the offence u/s 420 of IPC read with Section 156(3) of Cr.P.C. in

Crime No.149 of 2010 dated 2.7.2010. Among the other things the defendant made accusation against the plaintiff stating as he approached the defendant with a proposal of selling the landed property at Naidupeta Village and that the plaintiff executed a sale agreement for 100 ankanams of land for agreed consideration of Rs. 22,00,000/- on 16.2.2004 posing as he is the owner of the said land and believing his words the defendant parted with a sum of Rs. 1,60,000/- to him as a token advance and subsequently the defendant came to know that the land stands jointly in the name of the plaintiff's wife late Venkata Subbamma and his brother's wife by name Ch. Rajeswaramma and that the defendant got the knowledge only on verifying the sale deed dated 11.8.1982 and that the extent of land is only 95 ankanams instead of 100 ankanams and that when questioned the plaintiff executed a registered sale deed for 47 1/2 ankanams on 2.10.2004 and that he made another agreement on the same day promising to get a registered sale deed for balance of the land i.e., 47 1/2 ankanams through Ch. Rajeswaramma and that he received a sum of Rs. 2,10,000/- as part of the consideration for the remaining extent and that the defendant paid the balance of sale consideration to the plaintiff on different dates and that the plaintiff failed to get the registered sale deed by Ch. Rajeswaramma and that the defendant approached Ch. Rajeswaramma after two years and that she registered the said land by receiving a sum of Rs. 6,27,000/- and that the plaintiff committed fraud receiving additional amount of Rs.11,00,000/- in the aforesaid transaction and that he cheated the defendant.

It is further averred that after the crime is registered, the same was reported in the print media as well as in the electronic media both in Nellore and Chittoor Districts and the plaintiff filed an application in CrI. MP No.874 of 2010 seeking anticipatory bail which was granted to him by the Court of Sessions, Nellore Division, Nellore on 22.7.2010. It is further averred that after obtaining bail also, the same news was found in print media. When the plaintiff went to the police station to have the release order from the police station, again the same appeared in print media as though he was arrested and released on bail. When the plaintiff was on anticipatory bail, the question of his release on bail does not arise. It is further averred that the defendant is fully aware about the social, political and financial status of the plaintiff. The plaintiff was the Sarpanch of Naidupeta Village, Sri Potti Sriramulu Nellore District during the period 1981 to 1986. He was elected as M.P.P. to Naidupet as a Congress candidate and served in that capacity from 1986 to 1990. He became the P.C.C.I. General Secretary and thereupon contested the Assembly elections in the year 1994 as Congress (I) candidate for Srikalahasti Assembly Constituency and was defeated with a narrow margin. He won in the Assembly elections of Tirupati Assembly Constituency in the year 1999 as Telugudesam Party candidate. He is the trustee in the charitable and educational institutions in Krishnatheja Charities and he is the Managing Director of Prudential Sugars, Nindra. He is known for his service, honesty and integrity and he earned lot of fortune by his hard work and effort He has got both political rivalry and also enmity with the family members and relatives circle in view of their jealous attitude towards him. The plaintiff also acted as chief election agent for Praja Rajyam Party at Tirupati during the elections held in May, 2009. It is further averred

that the plaintiff has got both business as well as political rivalry. So also there are bitter differences between himself and his relatives since he refused to provide shelter to them in his business activities and almost all the relatives are inimical towards him. Taking undue advantage of the said fact and in active collusion with them, the defendant has ventured upon giving such a false complaint with per se defamatory allegations against the plaintiff who has got high reputation in the society. It is further averred that the said false imputations primarily concerning the character of the plaintiff and his general reputation are false to the very knowledge of the defendant. But, he made the above false imputations intending to harm, or knowing or having reason to believe that such imputations will harm the reputation of the plaintiff. The same was published both in electronic and print media time and again especially in electronic media throughout the day by way of scrolling. The false allegations of fraud, cheating etc., against the plaintiff were therefore, published within the meaning of "publication". The plaintiff therefore, suffered public ridicule and he is being looked down in the estimation of the public, political, business and industrial circles.

It is further averred that the plaintiff got issued a legal notice to the defendant on 24.9.2010 calling upon him to pay the damages in a sum of Rs.50,00,000/- within one week from the date of receipt of the notice. The defendant received the said notice, but he neither complied with the said notice nor replied for the same.

2. The trial Court raised a preliminary objection with regard to the territorial jurisdiction and returned the plaint for presentation before proper Court. The operative portion of the impugned order reads as follows:

There is no dispute with regard to the situation of the property and also residence of defendant. The plaintiff obtained anticipatory bail at Potti Sreeramulu Nellore District. The only contention of the plaintiff is that since the publication is made in Chittoor local edition the suit is maintainable at Tirupati. As could be seen from the publication filed along with the plaint it was published in Chittoor local edition, dated 4.7.2010. But the statement was given at Naidupet. The defendant never intended that paper publication in Chittoor edition. If at all such statement was given at any place in Chittoor District and it is published in Chittoor edition, it can be accepted that the defendant was intended to give such publication in Chittoor edition. But the statement was given to the reporter at Naidupet as per publication. The publication was not directly given by the defendant, but when he was questioned, he stated that for the last two years, the amount was not returned and the property was not registered in his favour. Since the statement was given at Naidupet, which is in Potti Sreeramulu Nellore District the plaintiff cannot maintain the suit at Tirupati Court and he has to file the suit only at District Court of Potti Sreeramulu, Nellore District and the suit is not maintainable before this Court. Accordingly, the point is answered.

3. Aggrieved by the same, the present appeal is filed by the plaintiff.

4. Learned Counsel appearing for the petitioner-plaintiff mainly urged that the trial Court ought to have seen that in the plaint specific averment was made by the plaintiff that because of the publication, he suffered public ridicule and is being looked down in the estimation of the public, political, business and industrial circles and that the Illustration to Section 19 of C.P.C. is very clear as to the invoking of the jurisdiction in case of wrong done to the personal property and therefore, the order of the trial Court in returning the plaint for presentation before proper Court on the ground that it had no territorial jurisdiction, is not correct and not based on the material on record.

5. Now the point for consideration is whether the order of the trial Court dated 15.3.2011 is sustainable and whether the plaintiff can sue the defendant at Tirupati Courts?

6. As seen from the plaint the suit was filed claiming damages for the defamatory statement made by the defendant in print media as well as electronic media. Admittedly, the petitioner is doing business at Chittoor. It is also an admitted fact that the defendant filed a private complaint against the plaintiff before the Judicial Magistrate of First Class, Sullurpet and the same was referred to the S.H.O., Naidupet Police Station in turn and a case in Crime No.149 of 2010, dated 2.7.2010 was registered against the plaintiff u/s 420 of IPC read with 156(3) of Cr.P.C. in which the plaintiff obtained anticipatory bail.

7. The only grievance of the plaintiff herein is that both the print and electronic media time and again made publication, especially in electronic media throughout the day by way of telecasting the scrolling news at the instance of the defendant with a mala fide intention of lowering the reputation of the plaintiff, his credit worthiness in the business etc. A notice was also issued by the plaintiff to the defendant on 24.9.2010 calling upon him to pay the damages, but the defendant having received the notice, did not issue any reply.

8. Learned Counsel for the petitioner plaintiff contended before the trial Court that the publication is made in Chittoor local edition and therefore, the Court at Tirupati in Chittoor District has got jurisdiction and in support of the same, he placed reliance on Illustration (b) of Section 19 of CPC and urges that the suit is maintainable at Tirupati Courts. The trial Court extracted Illustration (b) of Section 19 of C.P.C. which reads as follows:

A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

9. For better appreciation, Section 19 of CPC reads as follows:

Suits for compensation for wrongs to person or movables.--Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

10. Therefore, we have to see whether the Court, within whose territorial jurisdiction the consequence ensued from the wrong done beyond its territorial jurisdiction, entertain a suit for compensation for the wrong done for a decision in this appeal.

11. The learned Counsel appearing for the plaintiff drawn the attention of this Court to the decisions reported in [State of Meghalaya and Others Vs. Jyotsna Das](#), and G Ayyappan Ppillai v. State of Kerala, ILR 2009 (2) Ker 522 = AIR 2009 Ker 2288.

12. The facts of the case in G. Ayyappan Ppillai's case (supra), are as follows;

Appellant purchased 1.278 mt. of teak wood from Peechi Depot of the Forest Department in the auction held on 20.10.1991 for his house construction and according to him, after complying with the legal formalities, he was transporting the timber in a lorry to the site of house construction at Maradu in Kanayannur Taluk on 26.4.1992. It was intercepted by respondent No.2 at Karukutty Sales Tax Check Post alleging that appellant had no valid documents. Respondent No.2 refused permission to the appellant to proceed further with the timber to its destination. Appellant was allowed to proceed only on the next day on his paying Rs.9,454/-. On 26.8.1992 the Sales Tax Officer at Ernakulam ordered refund of the said amount Alleging that the said mala fide act of respondent No.2 caused loss to him including travelling expenses to go to different places including Ernakulam and additional payment made to the owner of the lorry for transporting the timber (to Ernakulam), appellant sued the respondents for compensation to the tune of Rs.50,000/-. Appellant stated in toe plaint that cause of action for the suit arose when respondent No.2 stopped the lorry with the timber on 26.4.1992 (at Karukutty) and detained the same till the next day and when the Sales Tax Officer allowed refund of the amount at Ernakulam on 26.8.1992. Suit was filed in the Sub-Court, Ernakulam. Respondents, among other things, contended that the said Court has no territorial jurisdiction to try the suit (as the alleged incident occurred at Karukutty, beyond its territorial jurisdiction). Learned Sub-Judge did not frame an issue regarding territorial jurisdiction but, an issue "whether the suit is maintainable" was framed. Parties went for trial. Appellant examined PWs.1 to 3 and marked his documents. Respondents examined DW1 in part At that stage, learned Sub-Judge considered the question of alleged lack of territorial jurisdiction and by the impugned order found that the said Court has no territorial jurisdiction to entertain the suit Learned Sub-Judge was of the view that refund of the amount by the Sales Tax Officer, Ernakulam did not create any cause of action for the appellant and directed that the plaint be returned for presentation before the proper Court.

Learned Sub-Judge has proceeded on the assumption that Section 20 of the Code applied to the facts of the case. Place of suing when compensation is claimed for wrongs to persons or movables is dealt with u/s 19 of the Code.

As per Section 19 of the Code, the suit could be filed either in the Court having territorial jurisdiction over the place where the "wrong was done" or where the defendant resides or carries on business, or personally works for gain. Respondent No.1 is the State of Kerala

impleaded as defendant in view of the provisions of Order XXVII, Rule 5A of the Code. Respondent No.2 who allegedly wronged the appellant by stopping movement of the timber has his office outside the territorial jurisdiction of the Sub-Court, Ernakulam. Then the question is whether the "wrong was done" within the territorial jurisdiction of the Sub-Court, Ernakulam.

What is meant by the phrase "wrong done"? Is it confined to the mere wrongful act alone? In Words And Phrases, Permanent Edition, Vol.46, Page No.483 the word "wrong" is given the following meaning:

"Wrong" means any deprivation of right, breach of contract, or injury done by one person to another". (O'Connor V. Dils, 26 S.E. 354, 355).

"Wrong" in law means a violation of the legal rights of another, an invasion of right to the damage of the parties who suffer it, especially a tort". (Donelen v. Denser, 134 SW 2d 132, 133).

A "wrong" involves the violation of one's right. "Wrong Done" includes the effect of the act and the resultant damage. If the act does not lead to any consequence or damage, such act may not be actionable. Therefore the phrase "wrong done" occurring in Section 19 of the Code should be understood as including the effect of the act. This view gets support from the decisions of the learned Single Judges of the Bombay and Gauhati High Courts, in [The State of Maharashtra Vs. Sarvodaya Industries](#), and [State of Meghalaya and Others Vs. Jyotsna Das](#), In State of Maharashtra's case (supra), movement of movables belonging to the plaintiff to its factory at Akola was stopped by the defendant outside the territorial jurisdiction of the Akola Court The resultant damage to the plaintiff took place at Akola. It was held that the Court at Akola had jurisdiction to entertain the suit.

It was observed that in the plaint it was noted that the appellant purchased timber from the Forest Department for house construction at Ernakulam. It was also stated that the timber was being transported by road to Ernakulam. Exhibits A3, A5 and A14 produced along with the plaint state that the destination was Maradu, Ernakulam. Since Exts.A3, A5 and A14 are produced along with the plaintiff, that also have to be considered along with the plaint averments for determining territorial jurisdiction. As movement of the timber was stopped at Karukutty on 26.4.1992 it could not be brought to Ernakulam that day. Appellant alleged that due to the illegal stoppage of movement of the timber, he had to travel to Ernakulam incurring expense, make additional payment to the owner of the lorry and thus suffered loss. The effect of the alleged wrongful act of respondent No.2 was felt at Ernakulam as well. In such a situation in my opinion Section 19 of the Code would apply and the Court within whose jurisdiction such effect was felt also has jurisdiction to entertain the suit.

13. Some illustrative cases to understand the legal position are as follows:

1. A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

2. A, residing in Delhi, published in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

3. A, residing in Delhi, publishes in Calcutta statements defamatory of B in a newspaper. The newspaper is circulated in Bombay, Madras and in Raipur. B may sue A either in Calcutta or in Delhi or in Bombay or in Madras or in Raipur.

4. A, residing in London publishes in London statements defamatory of B residing in Bombay. B cannot sue A in Bombay.

5. A, residing in Bombay is employed by B in Calcutta. B resides and carries on his business in Calcutta. A is not paid his salary. A cannot file a suit for recovery of salary in Bombay.

14. In order that Section 19 of C.P.C. may apply, the following two conditions must be fulfilled:

1. A wrong must have been done to the person or to movable property; and
2. The suit must be one for compensation.

In Woodroffe and Ameer Ali's "Code of Civil Procedure", it is stated:

Provisions of Section 19 are specific in subject and clear in their operation. Firstly, it governs a suit seeking restitutive relief's of compensation on the basis of wrong done to the person or to movable property. Secondly, it offers and furnishes option or choice if the conditions indicated by the qualifying clause are satisfied in that wrong complained of was done within the local limits of one Court while the defendant in fact resides or carries on business within the local limits of jurisdiction of another Court. Unless both these conditions together are available, no question of option or choice of forum can conceivably arise.

(emphasis supplied)

15. Therefore, by relying on the ratio laid down in the aforesaid decision reported in G. Ayyappan Ppillai's case (supra), the Courts at Tirupati in Chittpor District also have jurisdiction to entertain the suit filed by the plaintiff and therefore, the impugned order is not sustainable and the same is not based on good and sound reasons and thereby it is set aside. Accordingly, the civil miscellaneous appeal is allowed. The trial Court is directed to number the suit filed by the plaintiff if it is otherwise in order and dispose of the same in accordance with law. However, it is made clear that the observations, if any, made in this order will not influence the trial Court while disposing of the suit. No order as to costs.