
(1955) 10 BOM CK 0036

Bombay High Court

Case No: Criminal Application No. 1090 of 1955

Parbhubhai Paragji

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Oct. 31, 1955

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 439
- Penal Code, 1860 (IPC) - Section 409

Citation: AIR 1956 Bom 232 : (1956) CriLJ 497

Hon'ble Judges: Vyas, J; Shah, J

Bench: Division Bench

Advocate: D.V. Patel, Rajani Patel and V.B. Patel, for the Appellant; Govt. Pleader, for the Respondent

Judgement

Vyas, J.

The petitioner in this application is one Parbhubhai Paragji. who is an accused person in Criminal Case No. 513 of 1954 pending in the Court of the Judicial 1st Class Magistrate Navsari. It is prayed by the petitioner that the proceedings pending against him in the criminal case be quashed and that he be ordered to be discharged. It may be noted that a similar request made by him before the learned Sessions Judge, Surat, was rejected by the learned Sessions Judge.

2. It would appear that the learned Judicial Magistrate, 1st Class, Navsari, was "prima facie" satisfied that his Court has jurisdiction to try the accused upon a charge u/s 409, I. P. C. Mr. Rajani Patel, who appears for the petitioner, has raised a point that the learned Magistrate's Court had no jurisdiction to try the accused, because the entrustment had taken place in New Zealand.

3. Now if we turn to the charge against the petitioner, the charge leads that the petitioner was entrusted by one Parbhubhai Gonsai-bhai with a sum of ₹1550/- at Wellington, New Zealand, and the entrustment was made for the purpose that the

above-mentioned amount or its equivalent in Indian currency be paid to one Govanbhai Madhabhai at Kachhiwadi, a village situated in Taluk Navsari.

The charge further alleged that the petitioner upon reaching Sarporepardi dishonestly misappropriated or converted to his own use the above-mentioned amount of ₹ 1550/- or dishonestly used it or disposed it of in violation of the directions of law prescribing the mode in which such trust was to be discharged.

4. Mr. Bajani Patel for the petitioner says that the "evidence in the case did not disclose that any offence was committed by the Petitioner within the jurisdiction of the Navsari Court. It may be noted in this context that the case of the complainant is that the amount with, which the petitioner was entrusted at Wellington in New Zealand was given to the petitioner for a specific purpose, viz. that the said amount or its equivalent In Indian currency was to be paid to Govinbhai Madhabhai at Kachhiwadi, a village situated in Navsari Taluka. Whether ultimately the Magistrate comes to the conclusion that the misappropriation had actually occurred in Sarporepardi or not is a different matter.

What we have got to consider when a prayer is made to this Court for quashing the proceedings pending against the accused is the allegation made in the charge itself and according to the allegation made in the charge although the entrustment took place at Wellington, New Zealand, the dishonest misappropriation or conversion of the amount with which the petitioner was entrusted is alleged to have taken place at Kachhiwadi, a place undoubtedly situated within the jurisdiction of the Navsari Taluka. That being so, in our view, the petitioner has not made out any case why the proceedings pending against him in the court of the learned Judicial Magistrate should be quashed. The application fails "and is dismissed.

5. Application dismissed.