

KRISHNA KUMAR VARIAR
v.
SHARE SHOPPE
(Criminal Appeal Nos. 961-962 of 2010)

MAY 3, 2010

[Markandey Katju and A.K. Patnaik, JJ.]
2010 (5) SCR 1153

The following order of the Court was delivered

ORDER

Heard learned counsel for the parties.

2. Leave granted.

3. This appeal has been filed against the impugned judgment and order dated 14.05.2009 of the High Court of Delhi whereby the petition filed under Section 482 Cr.P.C. by the petitioner herein has been dismissed.

4. The appellant herein is an accused under Sections 415/420 IPC in which summons have been issued to him by a Court at Delhi. He challenged the summoning order on the ground that it is only the Court at Bombay which has jurisdiction to try and entertain the complaint. His petition under Section 482 Cr.P.C. Challenging the summoning order has been rejected by the High Court by the impugned order. Hence he is before us in this appeal.

5. In our opinion, in such cases where the accused or any other person raises an objection that the Trial court has no jurisdiction in the matter, the said person should filed an application before the Trial Court making this averment and giving the relevant facts. Whether a court has Jurisdiction to try/entertain a case will, at least in part, depend upon the facts of the case. Hence, instead of rushing to the higher Court against the summoning order, the concerned person should approach the Trial court with a suitable application for this purpose and the Trial court should after hearing

both the sides and recording evidence, if necessary, decide the question of jurisdiction before proceeding further with the case.

6. For the reason stated herein above, the impugned judgment and order is set aside and the appeal is allowed. The appellant, if so advised, may approach the Trial Court with a suitable application in this connection and, if such an application is filed, the Trial Court shall after hearing both the sides and after recording evidence on the question on jurisdiction, shall decide the question of jurisdiction before further proceeding with the Trial.

