

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

WRIT PETITION NO.3695 OF 2011

Between:

Mr. Dayanand Agarwal

.. Petitioner

and

The State of Maharashtra rep. by
Principal Secretary for Home, Mumbai
and others

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 13th AUGUST, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |

3. Whether His Lordship wishes to see the fair copy of the judgment? Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.3695 OF 2011

ORDER

The prayer of the petitioner in this case is to quash Crime No.77 of 2010 registered by the Station House Officer, Dongri Police Station, Mumbai, upon the report lodged by the fourth respondent or in the alternative to transfer the investigation being conducted by the Dongri police authorities at Mumbai to the concerned police station at Hyderabad or any other investigating agency in Andhra Pradesh.

By order dated 01.03.2011, this Court granted an interim direction restraining the Mumbai police authorities from taking any further steps in relation to the complaint lodged by the fourth respondent, including detention and arrest of the petitioner.

The Assistant Police Inspector, Dongri Police Station, Mumbai, filed a counter-affidavit stating that the fourth respondent filed a complaint on 29.06.2010, wherein he alleged that the petitioner had misappropriated an amount of Rs.41.00 lakhs for his personal use. On the basis of the said complaint, Crime No.77 of 2010 was registered by Dongri Police Station, Mumbai, under Sections 406 and 420 IPC. The complaint of the fourth respondent was that the petitioner, having accepted the post of Chairman and Managing Director of M/s. DRS Logistics Private Limited, had misappropriated money from the company's account. The Assistant Police Inspector stated that as the misappropriated amount of Rs.41.00 lakhs was issued and deposited in Mumbai at the direction of the petitioner, part of the cause of action arose there and thus, the crime was registered at Mumbai. He also questioned

the jurisdiction of this Court to entertain the writ petition on territorial grounds.

According to the petitioner, M/s. DRS Logistics Private Limited was established by him along with his two brothers, Rajendra Kumar Agarwal, the fourth respondent, and Ramesh Agarwal. However, owing to differences of opinion and misunderstandings, the business operations were divided into different areas whereby he started taking care of the business operations in certain States, while his brother, Rajendra Kumar Agarwal, was in charge of the business operations of other States, including Maharastra. He further stated that litigation arose between the members of the family and various cases were pending. As regards the subject Crime No.77 of 2010, the petitioner contended that no cause of action in connection therewith arose at Mumbai. He pointed out that the registered office of the company, M/s. DRS Logistics Private Limited, was at Secunderabad and its operational bank account was with HDFC Bank at Secunderabad. The withdrawal by way of cheques and the debit of amounts in the account also took place at Secunderabad. He therefore contended that no part of the irregularities allegedly committed by him related to Mumbai and therefore, the Dongri Police Station at Mumbai had no right to register a case against him.

The fourth respondent, the brother of the petitioner, did not choose to file a counter-affidavit though he is represented by learned counsel, Sri Chetluru Srinivas.

Sri P. Raja Sripathi Rao, learned counsel for the petitioner, contended that the Mumbai police had no jurisdiction to register the crime. He pointed out that if the complaint made by the fourth respondent was examined on merits, the alleged misappropriation was *vis-à-vis* operation of the bank account at Secunderabad and therefore, the case would fall within the territorial jurisdiction of the local police authorities at Secunderabad and not the Mumbai police authorities. He placed reliance on the judgment of the Supreme Court in **NAVINCHANDRA N.**

MAJITHIA V/s. STATE OF MAHARASHTRA^[1].

That was a case where a complaint was lodged at Shillong in the State of Meghalaya but it was contended by the appellant before the Supreme Court that only the Mumbai police authorities had jurisdiction. A question also arose before the Supreme Court as to whether the Mumbai High Court was right in rejecting the writ petition on the ground that it could not entertain it as the petitioner had prayed for quashing of a complaint registered at Shillong in Meghalaya. Answering this question in the negative, the Supreme Court opined that the cause of action for filing the writ petition arose within the territorial jurisdiction of the Mumbai High Court as the petitioner had not only asked for quashing of the complaint registered at Shillong in Meghalaya but also alternatively prayed for transfer of the investigation to the Mumbai police.

Similar is the case on hand as the petitioner not only asked for quashing of Crime No.77 of 2010 on the file of Dongri Police Station but also alternatively prayed that the investigation be transferred to the police authorities within the territorial jurisdiction of this Court. The contention of the Mumbai Police that this Court lacks territorial jurisdiction to entertain this writ petition is therefore rejected.

Coming back to **NAVINCHANDRA N. MAJITHIA¹**, dealing with the action of the police authorities at Shillong in registering the crime, the Supreme Court was of the opinion that the main factor to be considered for ascertaining the territorial jurisdiction with reference to a criminal offence would be the place where the alleged offence was committed. On the facts obtaining before it, the Supreme Court was of the opinion that the Mumbai police had the jurisdiction and not the police authorities at Shillong.

In the present case, Sri Chetluru Srinivas, learned counsel for the fourth respondent, does not deny that the allegation of misappropriation against the petitioner is in the context of operation of the bank account at Secunderabad. Even if the funds, which were withdrawn by such operation of the account at Secunderabad, originated from Mumbai, the commission of the offence, as alleged, is relatable only to Secunderabad

and not to Mumbai. This Court therefore has no hesitation in holding that the Mumbai police had no jurisdiction in the matter and the local police authorities alone had the power to investigate the alleged offence. Therefore, further investigation relating to the complaint lodged by the fourth respondent should be made over to the local police authorities by the Dongri Police authorities at Mumbai.

The writ petition is therefore allowed directing that the complaint lodged by the fourth respondent, which is presently being investigated by the Dongri Police Station at Mumbai, shall be transferred by them for further investigation to the local police station having jurisdiction in accordance with law. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

13th AUGUST, 2015

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[\[1\]](#) (2000) 7 Supreme Court Cases 640