(sr. no.10)
Wednesday,23.12.2015

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 759 OF 2015

Shri. Mahesh M. Harlalka ....Petitioner
V/s.
Union of India & Ors. ....Respondent

* * * * * *

Mr. Vishnu R. Doiphode i/by. Mr. V.M. Doiphode & Co.,
Advocate for the petitioner.
Mr. J.R. Solanki, PP for CBI.
Mr. D.R. More, APP for State.

Coram :- Smt. R.P. SondurBaldota, J.

6th January, 2016.

P.C. :-

1). The petitioner is accused no.1 in criminal proceedings being C.C. No. 1142/PW/2009 pending in the Court of Additional Chief Metropolitan Magistrate, 19th Court, Esplanade for the offences punishable under Sections 120B, 420, 467, 468 and 471 Indian Penal Code. He had filed an application before the trial Court contending that, the Courts in Mumbai have no jurisdiction and that the Court at Surat alone has jurisdiction to try the proceedings against him. The trial Court, rejected the application. The petitioner and three more accused persons challenged the order by preferring Revision Application before the Sessions Court. By the common order dated 21st November, 2014, the Revision Applications were dismissed and order of the trial Court upheld. Therefore, the petitioner herein alone has approached this Court to challenge the order of the trial Court and the Sessions Court.

2). The brief facts of the case are that, 12 accused including the petitioner herein are chargesheeted by CBI/EOW, Mumbai for the offences punishable under Sections 120-B, 420, 467, 468 and 471 Indian Penal Code on the facts that they floated, as many as, 12 fictitious firms and furnished certain addresses at Bombay to the Excise Department of the Commissioner, Central Excise and Customs, Surat-1, State of Gujarat. They opened 12 Current Accounts in various banks in the name of the fictitious firms as the proprietor, by using forged and fabricated documents. Then they showed purchase of raw material from some non-existing firm, also shown to be operating from Mumbai and by producing fabricated shipping bills, ARE-I Form and invoices purportedly endorsed by the custom officials of JNPT, Nhava Sheva or CFS, Mulund to the office of Central Excise and Customs, Surat-I to claim rebate to the extent of Rs.7.13 crores. The amount of rebate has been credited to various bank accounts in the names of fictitious firms and the amounts siphoned off by the accused. The amount of Rs.7.13 crores has been received by the accused in the bank accounts of the 12 fictitious firms under 227 claims made by the firms.

3). Mr. Doiphode, the learned Advocate for the petitioner claims that, since the rebate in respect of the excise was claimed at Surat, the fabricated documents allegedly produced at Surat and the bank accounts opened at Surat, the Court at Surat alone will have jurisdiction to try the complaint against the accused.

4). The Courts below have rejected the contention by noting that the offence of forgery is an integral part of the chargesheet of prosecution. The alleged forgery pertains to the record i.e. ARE-I forms and shipping bill invoices purportedly endorsed by the officials of JNPT, Nhava-Sheva and CFS, Mulund had taken place within the territorial jurisdiction of Mumbai. Therefore, though the same were subsequently presented to Central Excise, Surat-1, this Court will have jurisdiction to prosecute the accused. The learned Sessions Judge has referred to the provisions of Sections 178, 179 Criminal Procedure Code to arrive at the conclusion that only the consequences of omissions and preparation of documents has ensued at Surat, where the forged documents were presented. Therefore, the Court at Mumbai has territorial jurisdiction to try the offence. There is no infirmity whatsoever with the view taken by the Courts below. It is patent from the facts alleged that, the offence alleged has been committed partly at Mumbai and partly at Surat. Therefore, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)