

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.25521 of 2015

and M.P.No.1 of 2015

Raman Ravi

Petitioner

Vs

1.State, Rep by
The Officer-in-charge, J3 Police Station
Thiru-vi-Ka Industrial Estate, Guindy
Chennai 600 032, Tamil Nadu.

2.State, rep by
The Officer-in-Charge, T2 Police Station
1st Cross Street, Ambattur Industrial Estate
Chennai 600 058, Tamil Nadu.

3.State, rep by
The Officer-in-Charge, J6 Police Station
Thiruvanniyur, Chennai 600 041
Tamil Nadu.

4.State, Rep, by (Investigating Officer)
The Officer-in-Charge, Topsia Police Station
Kolkata Police, 106A, New Park Street
Kolkata 700 17, West Bengal.

5.Shyam DRI/SEL Ltd-Shyam Group (De-Facto Complainant)
Rep by Vice-President Shri Ratan K Chakrabarty
Having registered office at
Trinity Tower, 83, Topsia Road, 7th Floor
Kolkata 700 046.
West Bengal.

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration to declare that the FIR in Cr.No.136 of 2012 dated 06.10.2012 on the file of the 4th respondent police as without jurisdiction and therefore ultra vires and non est in law.

For petitioner Mr.Nithyaesh Natraj

For R1 to R4 Mr.C.Emalias

Addl.Public Prosecutor

For R5 Mr.Karthick, Senior Counsel
for Mr.Abudu Kumar Rajaratnam

RESERVED ON	PRONOUNCED ON
21.11.2016	25.11.2016

ORDER

This petition has been filed seeking a writ of declaration to declare that the FIR in Cr.No.136 of 2012 dated 06.10.2012 on the file of the 4th respondent police is without jurisdiction and therefore, ultra vires and non est in law.

2. Heard Mr.Nithyaesh Natraj, learned counsel for the petitioner, Mr.C.Emalias, learned Additional Public Prosecutor appearing for the State and Mr.Karthick, learned Senior Counsel for the de facto complainant.

3. On the complaint lodged by Ratan K Chakrabarty, Vice President, Siyam Group, Kolkata, the Inspector of Police, Topsia Police Station, registered a case in Cr.No.136 of 2014 on 06.10.2014 u/s 120-B, 406 and 420 IPC against Raman Ravi and Ganesh Venkateshwaran, challenging which Raman Ravi is before this Court.

4. It is the case of the de facto complainant that they had supplied TMT Bars worth Rs.2,02,84,414/- during 2008 to the accused in Chennai and that the accused, after receiving the material, had not paid its value. Hence, the FIR.

5. When the matter came up for admission on 19.08.2015, this Court passed the following order:

"It is seen that the defacto complainant/Shyam group of Companies, had supplied TMT steel to the accused from Calcutta, towards which it is alleged that the accused have to pay money. Earlier on the complaint of Shyam SEL & Power Ltd., an FIR in Cr.No.432 of 2014 was registered on 27.09.2014 by Jamuria Burdwan Police Station, challenging which the accused approached this Court in W.P.No.20951 of 2015 and this Court by order dated 16.07.2015 granted interim stay relying upon the judgment of the Supreme Court in Navinchandra N.Majithia v. State of Maharashtra and others [(2000) 7 SCC 640]. It is seen that the same group of Companies have earlier given a complaint of similar nature, based on which a case has been registered in FIR No.136 of 2012 by Topsia Police Station against the accused herein.

In the light of the above, there shall be an order of interim stay. Notice."

After notice, the de facto complainant entered appearance and the matter was heard at length.

6. Mr.Nithyaesh Natraj, learned counsel appearing for the petitioner sought to justify the prayer, by placing reliance upon the judgment of the Supreme Court in Navinchandra N Majithia v. State of Maharashtra [(2000) 7 SCC 640].

7. Per contra, Mr.Karthick, learned Senior Counsel appearing for the de facto complainant submitted that in S.Ilanahai v. The State of Mumbai and others, [2015-1-LW (Crl.) 395], a learned single Judge of this Court had extensively considered the law relating to the jurisdiction of this Court to issue a writ for quashing an FIR registered in a police station outside the State of Tamil Nadu and has held that such a writ cannot be issued.

8. Mr.Nithyaesh Natraj made a valiant attempt to distinguish the said judgment by citing various authorities and the provisions of the Constitution. Suffice it to say that the learned single Judge has discussed the law in Navinchandra N Majithia's case (supra) and had come to the aforesaid conclusion, based on the subsequent judgment of the larger Bench of the Supreme Court in Dashrath Rupsingh Rathod v. State of Maharashtra and another [(2014) 9 SCC 129]. It may be relevant to extract the following paragraphs from S.Ilanahai's case (supra):

"38. From the above judgment of the larger Bench, now it is crystal clear that what is relevant for

the High Court to entertain a petition under Section 482, is not the cause of action as the term "cause of action" is foreign to criminal law. In Navinchandra N.Majithia case the Hon'ble Supreme Court had not dealt with the question as to whether the power of the High Court under Section 482 of the Code could be exercised beyond the territorial limits of the High Court. As I have already pointed out, the Court only held that writ jurisdiction could be exercised beyond the territorial limits provided either the cause of action in full or in part has occurred outside the jurisdiction of the High Court concerned.

39. As we have already noticed, before the introduction of Clause 2 of Article 226 of the Constitution of India, as per the

Constitution Bench judgment in [Election Commission, India v. Saka Venkata Subba Rao](#), reported in AIR 1953 SC 210 the jurisdiction was based only on the situs of the person or authority concerned against whom writ or order is to be issued. The jurisdiction was extended beyond the territorial limits by the introduction of Clause 2 to [Article 226](#) of the Constitution of India based on the cause of action. So far as the territorial jurisdiction under [Section 482](#) of the Code of Criminal Procedure is concerned, it is akin to [Article 226](#) of the Constitution of India as it stood prior to the introduction of Clause 2 of [Article 226](#). When Parliament thought it fit, after the above Constitution Bench judgment, to extend the writ jurisdiction of the High Court beyond the territorial limits of the said High Court, it did not think it appropriate, similarly to amend [Section 482](#) of the Code of Criminal Procedure so as to add provision like Clause 2 of [Article 226](#) of the Constitution of India extending the inherent power of the High Court under [Section 482](#) of the Code of Criminal Procedure beyond the territorial limits of the said High Court based on the fact that the part of offence is committed outside the territorial limits of the said High Court.

40. Thus, in my considered opinion, so far as the power under [Section 482](#) of the Code of Criminal Procedure for the purpose of quashing the F.I.R. is concerned, the only criteria is the situs of the authority who has registered the case and not the place of commission of the crime either in full or in part. Similarly, the writ jurisdiction of the High Court under [Article 226](#) of the Constitution to quash a criminal case also does not extend beyond the territorial limits of the said High Court if the case is pending on the file of an authority who is located outside the territorial limits of the said High Court. This conclusion is inescapable, in view of the authoritative pronouncement of the larger Bench of the Hon'ble Supreme Court in Dashrath Rupsingh Rathod case (cited supra) wherein the Court has held that the concept of "cause of action" which is relevant to Civil Law cannot be imported to Criminal

Law."

9. Despite the eloquence of Mr.Nithyaesh Natraj, I am unable to persuade myself to disagree with the conclusion arrived at by the learned single Judge in S.Ilanahai's case (supra). Even though I am convinced that the FIR registered by Topsia Police Station deserves to be quashed, yet, judicial discipline demands that I should not trespass into the territorial jurisdiction of the Calcutta High Court and assume the power to quash the FIR, especially in the light of the reasoning given in S.Ilanahai's case (supra), by the single Judge of this Court.

10. It is brought to my notice that Ganesh Venkateshwaran [A2] had filed a C.R.R.No.2764 of 2014 before the High Court at Calcutta for quashing the FIR in this case and the learned single Judge, by order dated 22.09.2016, has given the following finding:

"On reading and re-reading of the FIR, this Court is prima facie satisfied that the allegations need to be investigated by the Investigating Agency. Thus, considering the nature of the case and the argument put forward by the learned Advocates appearing for the parties and opinion of this Court as disclosed above, this Court is satisfied that there is no merit in this revisional application to stall the investigation.

Thus, this revisional application under Section 397, read with Section 482 of the Code of Criminal Procedure, 1973, is disposed of on merits upon hearing the opposite parties only. Thus, the prayer for quashing of the F.I.R. stands rejected."

11. If multiple writ petitions are admitted in various High Courts, challenging the same prosecution, there is every possibility of conflicting orders being passed. Though I am of the view that this FIR deserves to be quashed, yet, my brother Judge in Calcutta seems to hold a totally different view. This is one of the additional reasons for this Court to keep its hands off and leave it to the High Court, within whose jurisdiction, the FIR has been registered, to deal with the matter, in accordance with law.

In the result, this writ petition is dismissed with liberty to the petitioner to approach the Calcutta High Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gms

To

1.The Officer-in-charge, J3 Police Station
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3.The Officer-in-Charge, J6 Police Station
Thiruvanniyur, Chennai 600 041
Tamil Nadu.

4.The Investigating Officer
The Officer-in-Charge, Topsia Police Station
Kolkata Police, 106A, New Park Street
Kolkata 700 17, West Bengal.

1 cc to M/s. Abudukumar Rajaratnam, Advocate, Sr. 68854

W.P.No.25521 of 2015

MV(CO)
kk 23/12

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