

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10470-2016 (O&M)
Date of decision: November 29, 2016.

M/s RGVP Energy Sources and another
... **Petitioners**

v.

State of Haryana and another
... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Vikam Singh, Advocate for the petitioners.
Ms. Tanushree Gupta, Deputy Advocate General, Haryana.
Shri Kuldeep Tiwari, Advocate for respondent No.2.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the consent of counsel for the parties and in view of the nature of the litigation.

2. This is a petition under Section 482 read with Section 407 Cr.P.C. for transfer as well as consolidation of the cases for the purposes of hearing. Prayer made by the petitioners is that in all there are 17 FIRs registered in various Districts of Haryana against the petitioners and the details thereof are as under:-

<i>Sr. No.</i>	<i>FIR No. & Date</i>	<i>Police Station</i>
1.	333, 17.8.2012	City Narnaul, Mahendergarh
2.	412, 24.8.2012	City Sonapat, Sonapat
3.	377, 7.7.2012	Gurgaon City
4.	380, 17.8.2012	Civil Lines, Rohtak
5.	357, 23.6.2012	Civil Lines, Hisar
6.	817, 21.9.2012	Civil Lines, Karnal
7.	29, 19.1.2013	Faridabad Central, District Faridabad
8.	374, 25.6.2012	City, Jind
9.	867, 5.7.2012	City, Panipat

<i>Sr. No.</i>	<i>FIR No. & Date</i>	<i>Police Station</i>
10.	135, 22.6.2012	Civil Lines, Kaithal
11.	326, 6.7.2012	City Palwal, District Palwal
12.	405, 11.10.2012	Model Town, Rewari
13.	376, 20.7.2012	Thanesar City, District Kurukshetra
14.	603, 17.8.2012	Sirsa City, District Sirsa
15.	529, 17.8.2012	Jhajjar, District Jhajjar
16.	134, 25.6.2012	Chandimandir, District

3. The case of the petitioners is that the contract was entered into at Panchkula for supply of solar lanterns and in turn the State administration would distribute the same to various Districts in the State. The prosecution case is that the petitioners had supplied the batteries of the make which was not prescribed in the contract but had intentionally shown the same to be of the make as per the agreement and therefore the petitioners have been facing the prosecution.

4. This petition is opposed by counsel for the complainant as well as for the State on the ground that there are different FIRs in different districts by the concerned district officers of the State. Different Investigating Officers were involved; different witnesses including official witnesses have been involved from different districts and it would not be worthwhile to transfer or consolidate the cases at one court. Countering the submission, Learned Counsel for the petitioners submits that in the same subject matter, arbitration has taken place at Panchkula and even award has been passed by the arbitrator. According to Learned Counsel for the petitioners, if the arbitration could take place at one place, there is no reason why the criminal cases should be tried in 17 districts as it would prove cumbersome as well as inconvenient for not only the petitioners but also the

witnesses apart from the risk of contradictory or evidence in contrast, in addition of having inconsistencies. Inviting my attention to para 2 of the reply affidavit, learned counsel for the complainant contends that the Investigating Officers as well as witnesses are posted at difference places and are also having transferable job as a result of which it would be very difficult to bring those witnesses in one court at Panchkula.

5. Having heard Learned Counsel for the parties, at the outset I find that though it is true that all the FIRs were registered at various districts at the behest of the district officers, the fact remains that the said FIRs arose out of alleged forgery etc. allegedly committed by the petitioners in relation to the supply of lanterns to the State authorities which were ultimately distributed in various districts in the State of Haryana. In other words, the controversy hovers around the supply of batteries which, according to the prosecution, were not of the make as per the agreement.

6. In allowing the holding of trial at 17 districts, I think there is every likelihood of conflict of findings, inconsistency of evidence and so on and so forth. On the contrary, I am of the opinion that it would enure to the benefit of the complainant rather than the petitioners that the private and/or official witnesses are examined before one court as it would streamline the entire recording of evidence of the official as well as private witnesses.

7. In so far as convenience of the petitioners is concerned to attend the trial at one place, the same may not be much relevant. However, in so far as the conflict of findings on facts and evidence or inconsistencies are concerned, the prosecution itself would suffer ultimately if the evidence

is allowed to be recorded at 17 places. In my opinion, in the interest of justice, all the cases should be tried at one place before one court.

8. In so far as the aspect of consolidation is concerned, I think it would be premature for me to make an order for consolidation as it is for the trial court first to find out whether it is necessary to have consolidation of all the cases for the purposes of trial. Liberty is therefore reserved in favour of both the parties to apply to the trial court for consolidation for the purpose of hearing of all the cases and the trial court would consider the application if filed by any of the parties according to law and make orders regarding consolidation according to law.

9. In so far as transfer of cases is concerned, the following order is made:-

- (i) CRM-M-10470-2016 is allowed;
- (ii) FIRs, as detailed in para 2 above, are transferred to the court of Chief Judicial Magistrate, Panchkula for further disposal according to law;
- (iii) the Chief Judicial Magistrate, Panchkula shall see that all the cases are sent for disposal in one court.
- (iv) Liberty is reserved in favour of the parties for consolidation of the cases for hearing and trial before the trial court after the cases are received.

[**A.B. Chaudhari**]
Judge

November 29, 2016.
kadyan

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No