IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1983 OF 2017

Pradip Mittal S/o. Kaushal Kishore Mittal.] … Petitioner

Versus

Central Bureau of Investigations & Ors.] … Respondents

Mr. Vikram Nankani, Senior Advocate a/w Mr. Sujay Kantawala i/b Mr. Yogesh M. Rohira for Petitioner.
Mr. H. S. Venegaonkar for CBI – Respondent Nos.1 to 3.
Mr. S. R. Shinde, APP for State.

CORAM :- RANJIT MORE &
SARANG V. KOTWAL, JJ.
RESERVED ON :- 5 JULY, 2017
PRONOUNCED ON :- 19 JULY, 2017

ORDER (PER : SARANG V. KOTWAL, J.) :-

1. The present petition is filed by the petitioner for various prayers. Initially, it was filed for issuance of a writ of habeas corpus on the ground that the transit remand granted to the CBI for the custody of the present petitioner was illegal. Subsequently, the petition was amended and two other prayers were added. By the amended prayer (aa), the petitioner prayed for setting aside the order dated 03/05/2017 granting transit remand of the petitioner and the prayer (aaa) was for issuance of a writ of mandamus or other directions, for directing continuation of the proceedings in respect of

FIR No. RC 8(A)/2017–CBI, ACB, Vishakhapatanam, only before the Special Judge for CBI cases at Mumbai.

2. The brief facts borne out from the petition and its annexures are as follows :-

An FIR was lodged at Vishakhapatanam bearing number RC 08(A)/2017 of CBI on 01/05/2017 under Sections 7 and 12 of the Prevention of Corruption Act, 1988. The said FIR listed 8 accused. The first accused was the Commissioner of Income Tax, Appeal – 30, Mumbai. The entire accusation in the FIR revolves around the said accused demanding and obtaining illegal gratification. He is the only public servant amongst the 8 accused who were named in the FIR, and since he was a public servant, the provisions of the Prevention of Corruption Act, 1988 were applied. The FIR was lodged on the basis of reliable information received in the office of the Superintendent of Police, CBI, ACB, Vishakhapatanam. The said accused no.1 was deciding income tax matters related to M/s. Balaji Trust (named as accused no.2 in the FIR). The said trust was represented by its trustee ESSAR Investments Limited, Mumbai. The said matter was handled on behalf of the said M/s. Balaji Trust by the CA firm M/s. G. K. Choksi, Ahmedabad, through one Shreyas Parikh (named as accused no.3 in the FIR). This trust, through the said CA, had agreed to pay a hefty bribe running into crores, as illegal gratification to the accused no.1, on his demand for a favourable order in the matter.

3. The present petitioner was employed by the afore-mentioned ESSAR group and he was monitoring the progress of the matter of paying the illegal gratification to the accused no.1. The petitioner was in touch with the accused no.3 Shreyas Parikh and the accused no.4 Gautam Choksi, both representing M/s. G. K. Choksi at Mumbai. The favourable order in the present matter was passed by the accused no.1, which was uploaded on 21/04/2017. The FIR further mentioned that, at the time of lodging of the FIR, the accused no.1 was on leave and was at Vishakhapatanam, Andhra Pradesh. The said accused no.1 was in close association with one Suresh Jain (named as accused no.7 in the FIR). He was in the bullion and real estate business at Vishakhapatanam. The accused no.1 had contacted the accused no.2 Shreyas Parikh through the accused no.7 Suresh Jain on 25/04/2017. On behalf of accused no.1, Suresh Jain (accused no.7) contacted Gautam Choksi (accused no.4) and enquired about the delivery of the agreed payment of illegal gratification.

4. On 27/04/2017, one Vipin Bajpai (named as accused no.6 in the FIR), was directed by the petitioner to deliver an installment of illegal gratification to Shreyas Parikh (accused no.3). Thereafter, one Manish Jain (named accused no.8 in the FIR), on instructions of accused no.7 Suresh Jain, took the delivery of the amount of illegal gratification.

5. On 28/04/2017, Manish Jain collected another installment of the illegal gratification from Vipin Bajpai and confirmed about the same to Suresh Jain.

6. On 01/05/2017, the accused no.1 asked the accused no.7 Suresh Jain to deliver part of the amount of the illegal gratification received by the said Suresh Jain on his behalf. The said delivery of the amount was to take place at the residence of the accused no.1 on 02/05/2017. Based on this information, the afore-mentioned FIR came to be lodged.

7. Pursuant to the said information, a trap was laid on 02/05/2017 and Mr. B. B. Rajendra Prasad (accused no.1) and Suresh Jain (accused no.7) were intercepted while handing over and receiving illegal gratification of 19.34 Lakhs at Vishakhapatanam. The said amount was recovered from the accused no.1 Mr. B. B. Rajendra Prasad. Search of the Mercedez-Benz car in which the accused no.7 had reached the residence of accused no.1, yielded an amount of Rs.2.50 Lakhs which was also seized as being part of the crime proceeds. Thereafter, pursuant to the voluntary disclosure made by the accused no.7 Suresh Jain, an amount of Rs.1.50 Crores was recovered being the balance amount of the illegal gratification which he had collected on behalf of the accused no.1 Mr. B. B. Rajendra Prasad. Thus, a total amount of around Rs.1.71 Crores was recovered, which was the amount of illegal gratification involved in the case. Both accused nos.1 and 7 were arrested on 03/05/2017.

8. In the meantime, the present petitioner was arrested on 03/05/2017 at approximately 4.00 a.m. in connection with the same FIR which was lodged at Vishakhapatanam. The CBI i.e. respondent

no.1 herein, sought transit remand of the petitioner from the CBI Special Judge at Greater Mumbai to enable them to produce the petitioner before the competent Court at Vishakhapatanam. The petitioner, on his part, along with another co-accused Vipin Bajpai, preferred an application for transit bail for a period of one week to enable them to approach the concerned Court at Vishakhapatanam, Andhra Pradesh.

9. The present petition is preferred by the petitioner as mentioned earlier. The main contention of the petitioner is that the entire transaction has taken place in Mumbai, and neither the investigating agency nor the Court at Vishakhapatanam has any jurisdiction to deal with the said crime and secondly, this Court has jurisdiction to transfer the FIR registered vide RC 8(A)/2017–CBI, ACB and further proceedings from Vishakhapatanam to Mumbai.

10. We have heard Mr. Vikram Nankani, learned Senior Advocate for the petitioner and Mr. H. S. Venegaonkar, learned Advocate for respondent nos.1 to 3. Mr. Nankani, in support of his contention that this Court can entertain the present petition and direct transfer of investigation and further proceedings from Vishakhapatanam to Mumbai, relied on the judgment in the case of ***Navinchandra N. Majithia Vs. State of Maharashtra and Others, reported in (2000) 7 Supreme Court Cases, 640***. In the said case, the Hon'ble Supreme Court has discussed the powers of High Courts in issuing certain writs under Article 226 of the Constitution of India. Paragraph nos.16, 17, 22, 27, 28 and 29 of the said judgment read thus :-

"16. *Article 226 of the Constitution of India which provides the power to High Courts to issue certain writ reads as follows :*

> *"226. Power of High Courts to issue certain writs.--*
>
> *(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.*
>
> *(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories."*

17. From the provision in clause (2) of Article 226 it is

clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of this Court.

18. …..

19. …..

20. …..

21. …..

22. So far as the question of territorial jurisdiction with reference to a criminal offence is concerned the main factor to be considered is the place where the alleged offence was committed.

23. …..

24. …..

25. …..

26. …..

27. Tested in the light of the principles laid down in the cases noted above the judgment of the High Court under challenge is unsustainable. The High Court failed to consider all the relevant facts necessary to arrive at a proper decision on a question of maintainability of the writ petition, on the ground of lack of territorial jurisdiction. The Court based its decision on the sole consideration that the complainant had filed the complaint at Shillong in the State of Meghalaya and the petitioner had prayed for quashing the said complaint.

The High Court did not also consider the alternative prayer made in the writ petition that a writ of mandamus be issued to the State of Meghalaya to transfer the investigation to Mumbai Police. The High Court also did not take note of the averments in the writ petition that filing of the complaint at Shillong was a mala fide move on the part of the complainant to harass and pressurise the petitioners to reverse the transaction for transfer of shares. The relief sought in the writ petition may be one of the relevant criteria for consideration of the question but cannot be the sole consideration in the matter. On the averments made in the writ petition gist of which has been noted earlier it cannot be said that no part of the cause of action for filing the writ petition arose within the territorial jurisdiction of the Bombay High Court.

28. The next question for consideration is regarding a proper order to be passed in the case.

29. Considering the peculiar fact-situation of the case we are of the view that setting aside the impugned judgment and remitting the case to the High Court for fresh disposal will cause further delay in investigation of the matter and may create other complications. Instead, it will be apt and proper to direct that further investigation relating to complaint filed by J. B. Holdings Ltd. Should be made by the Mumbai Police."

11. Thus, from the ratio laid down in the above judgment, it is clear that, this Court has jurisdiction to entertain this petition. The question, however, remains that whether in the factual matrix of the present case, this Court should exercise its jurisdiction under Article 226 of the Constitution of India and for the said purpose, the occurrence of incident and events of various dates are required to be considered in the light of the provisions of the Prevention of Corruption Act, 1988.

12. Mr. Nankani further submitted that the entire cause of action has arisen in Mumbai and what took place at Vishakhapatanam was not an offence or was not even the part of the transaction relatable to the offences alleged. According to Mr. Nankani, transfer at Vishakhapatanam was, strictly, change of hands of the tainted money, from the accused no.1's agent to accused no.1 himself; which, at best, can be described as 'utilization of amount which was already received' and cannot be termed as an 'acceptance of the amount constituting an offence'. Thus, in short, he submitted that, when the bribe amount was accepted by some person at Mumbai at the behest of the accused no.1, the offence was complete in Mumbai itself. Mr. Nankani, therefore, submitted that since no part of the offence took place at Vishakhapatanam, the investigating agency or the Court at Vishakhapatanam has no jurisdiction whatsoever in respect of the present case. In support of his contention, Mr. Nankani relied on the judgment of ***CBI, AHD, Patna Vs. Braj Bhushan Prasad and Others, reported in (2001) 9 Supreme Court Cases, 432***.

13. In the said case of ***CBI Vs Braj Bhushan*** (*supra*), the question arose as to where the cases should be conducted in respect of the Court cases styled with the sobriquet “Bihar Fodder Scam Cases” after the new State of Jharkhand was created. In the cases under consideration before the Hon'ble Supreme Court, huge sums of money were withdrawn from the Government Treasury situated in Jharkhand State and the question which fell for consideration before the Hon'ble Supreme Court was, whether the Court at Patna would get jurisdiction when certain allied activities such as conspiracy or preparation or even the ensued consequences took place within the jurisdiction of the Courts at Patna. The Hon'ble Supreme Court, after discussing the relevant provisions, came to the conclusion that the Courts at Jharkhand had jurisdiction to try all these cases. According to Shri Nankani, in the said case the amounts were withdrawn from Jharkhand and the Hon'ble Supreme Court held that the cases should be tried at Jharkhand. In the present case also the money was taken from accused and paid to the agents of the accused no.1 at Mumbai and therefore the court in Mumbai would get exclusive jurisdiction. The relevant paragraphs in the said judgment for the purpose of deciding the present petition are as follows :-

> *“31. Section 4 of the PC Act relates to the jurisdiction of the court for trial of offences under that Act. The first sub-section of Section 4 declares that notwithstanding anything contained in the Code or in any other law, the offences punishable under the PC Act can be tried "only" by the*

Special Judge, appointed under Section 3(1) of the PC Act. Now sub-section (2) of Section 4 is the important provision and it is extracted below :

> *"4. (2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the Special Judge appointed for the case, or, where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government."*

32. Thus, the only court which has jurisdiction to try the offences under the PC Act is the court of Special Judge appointed for the areas within which such offences were committed. When such an offence is being tried sub-section (3) enables the same Special Judge to try any other offence which could as well be charged against that accused in the same trial. So the pivot of the matter is to determine the area within which the offences was committed.

33. For that purpose it is useful to look at Section 3(1) of the PC Act. It empowers the Government to appoint Special Judge to try two categories of offences. The first is, "any offence punishable under this Act" and the second is, "any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified" in the first

category. So when a court has jurisdiction to try the offence punishable under the PC Act on the basis of the place where such offence was committed, the allied offences such as conspiracy, attempt or abetment to commit that offence are only to be linked with the main offence. When the main offence is committed and is required to be tried it is rather inconceivable that jurisdiction of the court will be determined on the basis of where the conspiracy or attempt or abetment of such main offence was committed. It is only when the main offence was not committed, but only the conspiracy to commit that offence or the attempt or the abetment of it alone was committed, then the question would arise whether the court of the Special Judge within whose area such conspiracy etc. was committed could try the case. For our purpose it is unnecessary to consider that aspect because the charges proceed on the assumption that the main offence was committed.

34. What is the main offence in the charges involved in all these 36 cases ? It is undisputed that the main offence is under Section 13(1)(c) and also Section 13(1)(d) of the PC Act. The first among them is described thus :

"13. (1) A public servant is said to commit the offence of criminal misconduct,-

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to

him or under his control as a public servant or allows any other person to do so."

The next offence is described like this :

"*13. (1) A public servant is said to commit the offence of criminal misconduct,-*

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest."

35. We have no doubt in our mind that the hub of the act envisaged in first of those two offences is "dishonestly or fraudulently misappropriates". Similarly, the hinge of the act envisaged in the second section is "obtains" for himself or for any other person, any valuable thing or pecuniary advantage by corrupt or illegal means.

36. The above acts were completed in the present cases when the money has gone out of the public treasuries and reached the hands of any one of the persons involved.

Hence, so far as the offences under Section 13(1)(c) and Section 13(1)(d) are concerned the place where the offences were committed could easily be identified as the place where the treasury concerned was situated. It is an undisputed fact that in all these cases the treasuries were situated within the territories of Jharkhand State.

37. Thus, when it is certain where exactly the offence under Section 13 of the PC Act was committed it is an unnecessary exercise to ponder over the other areas wherein certain allied activities, such as conspiracy or preparation, or even the prefatory or incidental acts were done, including the consequences that ensued.

38. In this context it is useful to refer to Section 181 of the Code which falls within Chapter XIII, comprising of provisions regarding jurisdiction of the criminal courts in inquiries and trials. Section 181 pertains to "place of trial in case of certain offences". Sub-section (4) thereof deals with the jurisdiction of the courts if the offence committed is either criminal misappropriation or criminal breach of trust. At least four different courts have been envisaged by the sub-section having jurisdiction for trial of the said offence and anyone of which can be chosen. They are : (1) the court within whose local jurisdiction the offence was committed; (2) the court within whose local jurisdiction

any part of the property which is the subject of the offence was received; (3) the court within whose local jurisdiction any part of the property which is the subject of the offence was retained; and (4) the court within whose local jurisdiction any part of the property which is subject of the offence was required to be returned or accounted for, by the accused.

39. Now, observe the distinction between Section 181(4) of the Code and Section 4(2) of the PC Act. When the former provision envisaged at least four courts having jurisdiction to try a case involving misappropriation the latter provision of the PC Act has restricted it to one court i.e. the Court of the Special Judge for the area "within which the offence was committed". No other court is envisaged for trial of that offence. We pointed out above that when the charge contains the offence or offences punishable under the PC Act as well as the offence of conspiracy to commit or attempt to commit or any abetment of any such offence, the court within whose local jurisdiction the main offence was committed alone has jurisdiction.

40. Shri Kapil Sibal, learned senior counsel contended that Section 4(2) of the PC Act does not override the provisions of the Code regarding jurisdiction because among the four sub-section included in Section 4 of the said Act, only first

and the last sub-section are tagged with the non obstante words "notwithstanding anything contained in the code of Criminal Procedure". In his submission the fact that sub-section (2) is freed from the non obstante words would indicate that the provisions of the Code can as well be read with that sub-section. In that context learned Senior Counsel invited our attention to Section 178 to 180 of the Code, showing that different courts having domain over different local areas have concurrent jurisdiction to inquire into or try the offences and hence the trial is permissible in any one of them.

41. Absence of a non obstante clause linked with Section 4(2) of the PC Act does not lead to a conclusion that the sub-section is subject to the provisions of the Code. A reading of Section 4(2) of the Code (not the PC Act) gives the definite indication that the legal position is the other way round. Section 4 of the Code is regarding trial of offences under the Indian Penal Code and other laws. Sub-section (1) of it relates only to offences under the Indian Penal Code. Sub-section (2) relates to "all offences under any other law". It is useful to read the said sub-section at this stage :

> *"4. (2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to*

any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."

42. Thus, if the PC Act has stipulated any place for trial of the offence under that Act the provisions of the Code would stand displaced to that extent in regard to the place of trial. We have, therefore, no doubt that when the offence is under Section 13(1)(c) or Section 13(1)(d) of the PC Act the sole determinative factor regarding the court having jurisdiction is the place where the offence was committed."

14. From the ratio laid down in the above judgment, it is clear that the main determinative factor for deciding the place of offence is the place where the offence has actually taken place. It is also observed in the said judgment that when it is certain where exactly the offence under Section 13 of the PC Act is committed, it is an unnecessary exercise to ponder over the other areas wherein certain allied activities such as conspiracy or preparation had taken place or where the consequences had ensued.

15. In the present case, Mr. H. S. Venegaonkar, learned Advocate for respondent nos.1 to 3, has made a statement that the investigating agency has applied Section 13(1)(d) in the present investigation on 08/05/2017. The offence as defined under Section 13(1)(d) is made out, when the public servant, by corrupt or illegal

means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or by abusing his position as a public servant, obtains for himself or any other person any valuable thing or pecuniary advantage; or while holding office as a public servant, obtains for any person or any valuable thing or pecuniary advantage without any public interest.

16. In the present case, the allegations are squarely covered under these 3 categories of Section 13 (1) (d) (i), (ii) and (iii). All these 3 categories refer to the situation when the public servant 'obtains' such thing or pecuniary advantage. In the present case, we do not agree with the submission of Mr. Nankani that what took place at Vishakhapatanam was not acceptance of money. We are of the opinion that when the public servant actually took physical delivery of the part of the bribe amount, he had clearly obtained a valuable thing or pecuniary advantage. We also do not agree with Mr. Nankani's submission that it was merely the 'utilization of amount and not acceptance of amount' and that the acceptance was completed in Mumbai much before the public servant was caught with the bribe amount at Vishakhapatanam.

17. There is another angle from which the present case can be looked into and, that is relatable to the wordings of Section 12 of the Prevention of Corruption Act, 1988. Section 12 reads thus :-

> "***12. Punishment for abetment of offences defined in Sec. 7 or Sec. 11*** – *Whoever abets any offence punishable*

under Sec. 7 or Sec. 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine."

18. From the said wordings, it is quite clear that Section 12 can be applied in connection with commission of offences punishable under Section 7 and 11 only. Section 12 does not refer to Section 13 at all. Therefore, Section 13 is a complete offence by itself, independent of Section 12 of the Prevention of Corruption Act, 1988. Hence when the public servant had accepted the amount at Vishakhapatanam, the offence under Section 13(1)(d) was completed and therefore was no question of taking recourse to Section 12 to find out whether the investigating agency or the Courts at Vishakhapatanam had any territorial jurisdiction considering the events which had taken place in Mumbai.

19. Even otherwise, as far as Section 7 is concerned, the question would arise as to what transpired at Vishakhapatanam would constitute acceptance of the tainted money or can it be said that the public servant had obtained the bribe amount. Section 7 reads thus :-

"***7. Public servant taking gratification other than legal remuneration in respect of an official act***.-- *Whoever, being, or expecting to be a public servant, accepts of obtains or agrees to accept or attempts to obtain from any*

> *person, for himself or for any other person, any gratification whatsoever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in Cl. (c) of Sec. 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.*"

In this case, when the accused no.1, who was the public servant, had actually taken physical delivery of the part of the bribe amount at Vishakhapatanam, even for the purposes of Section 7, it can be said that the acceptance as envisaged under Section 7, was made at Vishakhapatanam.

20. When the petitioner was produced for transit remand before the Special Court at Mumbai, the learned Special Judge has considered the FIR. The said FIR was lodged at Vishakhapattanam. In the said FIR, it is mentioned as to what were the allegations against the public servant. It was also mentioned that the accused no.7 Suresh Jain who was based at Vishakhapatanam, was instrumental in

demanding the bribe amount. Thus, at that stage, the learned Special Judge had sufficient material to conclude that the Court at Vishakhapatanam had jurisdiction to remand the accused and in our opinion, he has complied with the provisions of Section 167 of the Cr.P.C.

21. Mr. Nankani has further relied on the case of ***D. Velayutham Vs. State Represented by Inspector of Police, Salem Town, Chennai, reported in (2015) 12 Supreme Court Cases, 348***. The said decision pertains to the case where accused no.2 was alone entrapped while accepting the bribe amount and the question was whether the accused no.1 could claim acquittal merely for non-handling of the bribe money. In our opinion, this case does not touch upon the question which we are deciding in the present petition.

22. Mr. Nankani then relied on an unreported case decided by the High Court of Jharkhand at Ranchi in the case of ***Nishi Kant Vs. State of Jharkhand & Anr, decided on 12/07/2011 in TRP (CR) No.4/2011***. In the said case, the demand of illegal gratification was made from Ranchi and the trap was executed at Ranchi and it was contended that no occurrence had taken place within the jurisdiction of Court of Dhanbad. The High Court of Jharkhand had held in that case that since the complainant was at Dhanbad when the demand from the complainant was made and since the land involved in the case was located in the district of Dhanbad, the Court at Dhanbad had jurisdiction. In our opinion, this case is of no relevance to the facts of the present case before us. Mr. Nankani also relied on the bail order

passed by the High Court of Delhi in ***Bail Application No.444 of 2012 in the case of Sumit Tandon Vs. CBI, decided on 10/04/2012***. In the said case, the FIR was registered at Delhi and the treasury from which the money was embezzled was at Delhi but the offence of misappropriation took place in the State of Uttar Pradesh and therefore, the Court held that the Court at Uttar Pradesh alone was competent to try the same. The observations in the said case, in fact, appear to be against the contention of Mr. Nankani in the present case.

23. Applying the ratio of Majithia's case (Supra), we find that, there is no malafide intention in registration of FIR at Vishakhapattanam. It is also not possible to hold that no part of the offence took place at Vishakhapattanam.

24. Thus, looking at from any angle as discussed above, we are convinced that the investigating agency at Vishakhapatanam has jurisdiction to investigate the said case and therefore, the FIR registered at Vishakhapatanam should not be transferred to Mumbai. Consequently, we also hold that the transit remand order passed by the Special Judge for CBI at Mumbai does not suffer from any illegality or impropriety and therefore does not call for any interference.

25. In view of the above, the petition is dismissed.

(SARANG V. KOTWAL, J.) **(RANJIT MORE, J.)**