



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. (MD) Nos.11192 and 12200 of 2015

and M.P.Nos.2 to 4 of 2015 in W.P. (MD)No.11192 of 2015

& M.P.No.2 of 2015 in W.P. (MD)No.12200 of 2015

W.P. (MD)No.11192 of 2015:

1.M/s Coastal Energen Pvt. Ltd.,
Represented by authorised Signatory
7th Floor Buhari Towers
4, Moores Road, Chennai 600 002.

2.S.M.Zafrulla

3.Moosa Raza

4.Ahmed A.R.Buhari

5.P.K.Sen

6.G.Selvaraj

Petitioners

vs.

1.The State of West Bengal
Represented by its Secretariat, Kolkata.

2.The Inspector of Police cum Station House Officer
Shakespeare Sarani, Police Station
Kolkata, West Bengal 700 017.

3.M/s Aster Pvt. Ltd., (Formerly known as
Aster Teleservices Pvt. Ltd.)
E-67, Fourth Crescent, Sainikpuri
Hyderabad 500 094.

4.M/s Mirador Commercial Pvt. Ltd.
37, Shakespeare Sarani, Kolkata 17
and also at no.2 India Exchange Place
2nd Floor, Kolkatta 700 001.

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the criminal case registered on the file of the 2nd respondent police in FIR No.249 of 2014 and quash the same as illegal.

For petitioners

Mr.Ajmal Khan, Senior Counsel
for Mr.M.Mahaboob Athiff

For R4

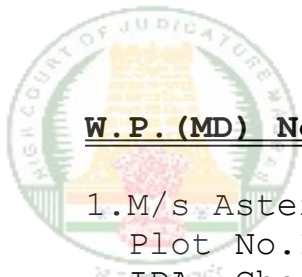
- Mr.S.Deenadhayalan

R1

- Tapal Returned

R2 & R3

- No appearance

**W.P. (MD) No.12200 of 2015:**

1.M/s Aster Private Limited
Plot No.141/1, Phase II
IDA, Cherlapally, Hyderabad 500 051
Telengana

Representation by its Authorized Representative Paturu
Bhaskar.

2.Alapathi Srinivasa Prasad
3.Ragunath Akasam
4.Sharad Sinha
5.Naga Venkata Ranga Kumar Chitta
6.Umesh Kunapareddy

Petitioners

vs.

1.The State of West Bengal
Represented by its Secretariat
Kolkata.

2.The Inspector of Police cum Station House Officer
Shakespeare Sarani, Police Station
Kolkata, West Bengal 700 017.

3.M/s Coastal Energent Pvt. Ltd.,
7th Floor Buhari Towers
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For petitioners -	Mr.C.Prabhu Rajadurai for M/s Nawaz
For R3	- Mr.M.Mahaboob Athiff
For R4	- Mr.S.Deenadhayan
R1	- Tapal Returned
R2	- Tapal due

RESERVED ON	24.04.2017
PRONOUNCED ON	06.06.2017



C O M M O N O R D E R

These petitions are filed to issue a writ of certiorari calling for the records relating to the criminal case registered on the file of the 2nd respondent police in FIR No.249 of 2014 and quash the same as illegal.

2. For the sake of convenience, the petitioners and the 4th respondent will be referred to as the accused and complainant respectively.

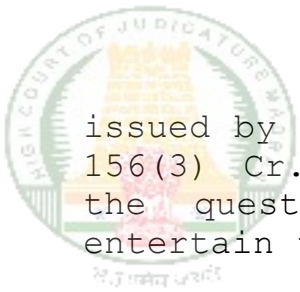
3. The complainant presented an application under Section 156 (3) Cr.P.C. to the Chief Metropolitan Magistrate, Kolkata on 15.07.2014 alleging that the twelve accused named in the complaint have committed offences under Sections 406, 403, 418, 420, 323, 506 and 120-B IPC. The Magistrate referred the complaint to the Station House Officer, Shakespeare Sarani Police Station, Kolkata, who registered a case in Cr.No.245 of 2014 for the aforesaid offences against the twelve accused, challenging which, the accused have filed the two writ petitions challenging the FIR.

4. Heard Mr.Ajmal Khan, learned Senior Counsel and Mr.C.Prabhu Rajadurai for the accused and Mr.Deenadayalan for the *de facto* complainant.

5. The learned counsel for the accused submitted that even if the entire averments made in the complaint that forms the basis of the FIR are accepted in toto, yet, they do not disclose the commission of a cognizable offence for the Kolkata police to register an FIR. The learned counsel also submitted that the entire averments show that there was business transaction between M/s Aster Private Limited [A1] and Southern Petrochemical Industries Corporation (SPIC-SMO), inasmuch as they had taken up a contract from M/s Coastal Energen Private Limited [A2] in August 2010 for installation of energy transmission lines between Tuticorin and Madurai in Tamil Nadu .

6. It is the case of the complainant that they took over SPIC-SMO Division some time in the year 2012 and thereby stepped into the shoes of SPIC-SMO in the joint venture with M/s Aster Private Limited [A1] for completing the project of M/s Coastal Energen Private Limited [A2]. In this transaction, it is alleged by the complainant that M/s Aster Private Limited had cheated the complainant to a tune of Rs.3,30,30,419/- and hence, the complaint.

7. Had the FIR in this case been registered by a Police Station in the State of Tamil Nadu, this Court would have quashed the FIR on the simple ground that a purely civil transaction has been given a criminal colour. However, the FIR in this case has been registered pursuant to the directions



issued by the Chief Metropolitan Magistrate, Kolkata under Section 156(3) Cr.P.C. to Shakespeare Sarani Police Station. Therefore, the question of territorial jurisdiction of this Court to entertain these petitions requires to be decided.

8. The learned counsel for the accused placed strong reliance upon the judgment of the Supreme Court in **Navinchandra N. Majithia v. State of Maharashtra and others [(2000) 7 SCC 640]**, wherein, the Supreme Court has clearly held that the High Court, under Article 226 of the Constitution of India, can quash an FIR that has been registered in another State, if a part of the cause of action had arisen within its territorial jurisdiction. If this Court were to apply the law laid down in **Navinchandra's** case, it is limpid that the FIR can be quashed, as the entire cause of action in this case had arisen only in the State of Tamil Nadu.

9. It is brought to the notice of this Court by the learned counsel for the complainant that a 3 Judge Bench of the Supreme Court, after considering **Navinchandra's** case in **Dashrath Rupsingh Rathod v. State of Maharashtra and another [(2014) 9 SCC 129]**, has held that the concept of cause of action is relevant only in civil law and that the same cannot be imported to criminal law.

10. Relying upon **Navinchandra's** case and **Dashrath Rupsingh Rathod's** case, a learned single Judge of this Court in **S. Ilanahai v. The State of Mumbai and others [2015-1-LW (Cr1.) 395]**, has completely discussed the entire contours of the power of the High Court to quash an FIR that has been registered in another State and has held as follows:

"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 v. State of Maharashtra (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.



41. In view of the said settled position, I hold that in the instant case, though it may be true that a part of offence has been committed within the State of Tamil Nadu, since the situs of the authority who has registered the crime falls outside the territorial limits of this Court, this petition is not at all maintainable before this Court."

(emphasis supplied)

11. The learned counsel for the accused strenuously contended that the law laid down by the learned single Judge in **S.Ilanahai's** case requires re-consideration, as in **Dashrath Rupsingh's** case, the issue before the Supreme Court was on the territorial jurisdiction of trial of offence under Section 138 of the Negotiable Instruments Act, whereas, the law in **Navinchandra's** case applies in all its fours to the facts and circumstances of the case at hand.

12. In the considered opinion of this Court, the learned single Judge, in **Ilanahai's** case, has discussed both **Navinchandra's** case by a 2 Judge Bench of the Supreme Court and **Dashrath Rupsingh's** case, by a 3 Judge Bench of the Supreme Court and has held that the High Court, neither under Section 482 Cr.P.C. nor under Article 226 of the Constitution, can quash an FIR that has been registered outside the State of Tamil Nadu. This Court has no good reasons to differ with the view expressed in **Ilanahai's** case.

In the result, these writ petitions are dismissed with liberty to the petitioners/accused to approach the appropriate forum for redressal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Chief Secretary to Government,
Secretariat, State of West Bengal,
Calcutta.

2.The Inspector of Police cum Station House Officer
Shakespeare Sarani, Police Station
Kolkata, West Bengal 700 017.

+1cc to AJMAL ASSOCIATES in SR. No.58771

+1cc to M/s.S.DEENA DHAYALAN Advocate in SR. No.58704

GMS

JS/SV/SAR.2/13.6.2017/5P-5C