

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-20391-2011 (O&M)
Date of decision: - 22.9.2017**

K.K.Mehta

.....Petitioner

versus

Total Finaelf India Ltd. and ors

.....Respondents

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - None for the petitioner.

Mr. S.S. Narula, Advocate
for respondents No. 1 and 2.

Mr. Prateek Mahajan, Advocate for respondent No. 3.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the order dated 24.12.2010, passed by Judicial Magistrate Ist Class, Panchkula, vide which complaint filed by the petitioner was dismissed on the ground that Courts at Panchkula has no territorial jurisdiction. The operative part of the order reads as under: -

“3. Rival contentions of both the sides have been heard and the case file has been carefully and thoroughly perused.

4. The learned counsel for the complainant has argued that the accused persons are wasting the time not only of this court rather they are wasting time of Hon'ble High Court and Hon'ble Supreme Court. They were summoned under section 420 read with Section 34 of the IPC and admittedly they went to the Hon'ble High court for quashing of the complaint. The court had summoned the accused persons vide detailed order dated 12 122007 and once an order has been passed the same cannot be reviewed even if it is erroneous He attracted the attention of the court towards section 182 of the code of criminal procedure and argued that when the complainant had come to know in respect of cheating at Panchkula through letters then the courts.

6. The reliance was also placed on Mavinchandra N. Majithia Vs State of Maharashtra 2000 (4) RCR (Criminal) 30, wherein the Hon'ble Supreme Court on sections 177 & 178 of Cr. P.C. and Article 226 of Constitution of India held that 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 alleged offence was committed.

7. In view of the above discussion and after careful perusal of the case file this court is of the considered opinion that so far as the powers of the court to review the order dated 12.12.2007 is concerned this court is not reviewing that order rather as ordered by the Honble Punjab and Haryana High Court vide its order dated 21.11.2008 the court is considering the plea of territorial jurisdiction raised by the accused persons. Admittedly, the complainant is residing at Panchkula and had sent a notice to the accused persons from Panchkula. The learned counsel for the complainant has tried to take shelter of section 182 of Cr.P.C. but this section is not applicable in the case in hand. In this case the alleged deception is not practiced by means of letters or telecommunication messages. Admittedly from the notice and its reply no cheating has been done by the accused persons with the complainant. Even if the offence was committed by the accused persons by way of letters but those letters were received by the complainant at Mumbai only and not at Panchkula. The complainant was having his residential address at Mumbai only and not at Panchkula when the alleged offence was committed. The law as laid down in the citations relied upon by the learned counsel for the accused persons is fully applicable on the facts and circumstances of the present case and merely the residence of the complainant will not confer the jurisdiction on the courts at Panchkula.

8. There is no dispute regarding the employment of the complainant with the accused company and as per the complainant the accused company was required to deposit the superannuation allowance of its employee with accused no. 3. Accused No 1 & 2 contributed superannuation allowance from 1.1.99 to 30.6.2004 except for the period from 1.4.2001 to 31.12.2003 i.e. for 33 months. On that relevant time not only the accused rather the complainant was also resident of Mumbai and thus the jurisdiction of the Panchkula courts to entertain the complaint of the complainant is not there. Even the complainant had come to know about the alleged fraud from the letter dated 28.7.2004 which was admittedly received by him at Mumbai.

9. In these circumstances this court does not feel any hitch to hold that the complaint of the complainant could not have been entertained at

Panchkula courts have no territorial jurisdiction as the alleged offence was committed within the territorial jurisdiction of Mumbai. The application stands allowed. Consequently, the complaint of the complainant is hereby dismissed being beyond jurisdiction. File be consigned to the record room.”

This petition was filed in the year 2011 and on the last date of hearing i.e. 17.8.2017, it was noticed that number of adjournments have been sought by the petitioner; no one was present on that date also and Registry was directed to send intimation to learned counsel for the petitioner with a note on the summon that in case the petitioner fails to appear before the Court on the next date of hearing i.e. for today itself to address arguments, this petition will be dismissed.

As per office report, learned counsel for the petitioner has been duly informed. Since, no one is present, despite service on behalf of the petitioner, present petition is dismissed for non-prosecution.

22.9.2017
preeti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No