

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.24038 of 2015 (O&M)
Date of decision: October 25, 2017

Balbir Singh Uppal & another ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. J.S. Bedi, Senior Advocate with
Mr. R. Kartikeya, Advocate for the petitioners.
Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.
Mr. D.S. Gandhi, Advocate for respondent No.4.

Rajan Gupta, J.

Petitioners seek transfer of investigation of FIR No.424 dated 24.8.2015, registered at Police Station Goregaon, Mumbai.

It has been urged before the court that the entire cause of action has arisen in the State of Punjab. Petitioner No.1 lodged the FIR No.33 dated 13.4.2015, under sections 406, 420, 120-B IPC against private respondents at Police Station Fatehgarh Sahib. As counter-blast, respondent No.3 approached the police at Goregaon, Mumbai and lodged FIR in question against the petitioners under sections 464, 465, 467, 468, 471 and 120-B IPC. Respondents No.3 and 5 were declared proclaimed offenders pursuant to FIR pending at Fatehgarh Sahib. As cause of action emanates in State of Punjab, investigation of subsequent FIR at Goregaon be transferred here. Reliance has been placed on judgment reported as *Navinchandra N. Majithia Vs. State of Maharashtra, 2000 (4) R.C.R. (Criminal) 30.*

Reply by way of affidavit of Ajinder Singh, Deputy

Superintendent of Police, Sub Division Khamano, District Fatehgarh Sahib has been filed. Learned State counsel urged that present petition is misconceived as investigation pursuant to the FIR registered at Goregaon is still pending. Plea for transfer of same to the police authority in State of Punjab is not maintainable.

Petitioners and private respondents have some monetary dispute emanating from certain contractual obligations. From the averments made in this petition, it appears that petitioners entered into an agreement with private respondents for investment in the project in the name and style of M/s Arin Developers Pvt. Ltd.. They alleged that they had parted with huge amount of money in favour of private respondents. They failed to honour the commitment. Thus, FIR was lodged at Fatehgarh Sahib. Respondent Balraj Jagdish Chopra also invoked jurisdiction in the court of Metropolitan Magistrate, Borivali Mumbai under section 156 (3) Cr.P.C. for lodging FIR against the petitioners. An order was passed and pursuant to same, FIR No.424 dated 24.8.2015, was registered at Police Station Goregaon, Mumbai. It appears, number of disputed questions of fact are involved in the petition, which cannot be adjudicated upon in writ jurisdiction. As regards question of jurisdiction of this court, reliance of judgment in *Navinchandra's case (supra)* is misconceived. In the said case, the Apex court had clarified that the High court must ascertain whether any part of cause of action had arisen within the territorial limit of its jurisdiction. This would depend on facts of each case. In *Navinchandra's case (supra)*, apart from prayer for quashing, an alternative prayer had been made for transfer of investigation outside the State of Meghalaya. The

Apex court found, in the peculiar facts situation, that it would be apt that further investigation relating to the complaint in question be made by Mumbai police. It, thus, directed transfer of investigation pending at Shilong to a competent investigating wing at Mumbai. However, factual situation in instant case is not similar to that in *Navinchandra's case (supra)*. Thus, said judgment is not applicable. Stand of the petitioners that cause of action arose within the jurisdiction of this court is bereft of any supportive material. Besides, investigation of the case is still pending. Prayer for transfer of same to an investigating agency in State of Punjab is misconceived.

On the other hand, in the judgment reported as *Alchemist Limited and Anr. Vs. State Bank of Sikkim and Ors., 2007 AIR (SC) 1812*, it has been clearly held that writ jurisdiction of this court would not run beyond the territories subject to its jurisdiction. Besides, the person or authority, to whom the direction is to be issued, should be within its territorial jurisdiction. Admittedly, in the instant case FIR was lodged at Goregaon, Mumbai pursuant to order passed under Section 156 (3) Cr.P.C. Investigation is stated to be pending. In view of the disputed questions of facts, lack of jurisdiction and pendency of investigation, no case for interference in writ jurisdiction is made out. The petition is without any merit and is hereby dismissed.

October 25, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No