



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.08.2018

PRONOUNCED ON : 27.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.1711 of 2011

M/s.Web Fund Foundations Pvt. Ltd.,
Represented by its Manager,
Pandian,
Regd.Off: No.85, First Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 015.

.. Petitioners /Petitioner/
Defacto Complainant

-vs-

1. State Represented by,
The Inspector of Police,
Central Crime Branch,
Egmore, Chennai.
(Crime No.244 of 2009)

..1st Respondent / Respondent /
Complainant

2.Nikhlesh Shukla

.. 2nd Respondent/ Respondent/
First Accused

3.K.D.Shukla

.. 3rd Respondent/ Respondent/
Second Accused

4.Shiv Shankar Shukla

.. 4th Respondent/Respondent/
Third Accused

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C., praying to call for the records in Cr.M.P.No.540 of 2010 on the file of the learned XI-Metropolitan Magistrate, Saidapet, Chennai and to set aside the order of the learned XI-Metropolitan Magistrate, Saidapet, Chennai, dated 04.02.2011 in Cr1.M.P.No.540 of 2010.



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For Petitioners : Mr.M.Murali

For Respondents : Ms.Kritika Kamal
Government Advocate (Criminal side)
for R1.
No appearance for R2 to R4.

ORDER

This Criminal Revision Case is filed against the impugned order dated 04.02.2011 in CrI.M.P.No.540 of 2010, passed by the XI-Metropolitan Magistrate, Saidapet, Chennai.

2. Heard both sides and perused records.

3. After hearing both side arguments and averments, the Court below has observed as follows and dismissed the protest petition:

"....the entire events taken place at Bhilai and Jamshedpur. The accused have received goods at Bhilai and distributed the same on commission basis. The petitioner can claim return of goods or money value or damages from the accused if any breach of agreements happened. Further, the unsold goods were sent to Jamshedpur Warehouse of the complainant. The entrustment of goods were taken place at Bhilai and any misappropriation of goods taken place, the cause of action for any civil remedy arised either at Jamshedput or Bhilai. Hence, there is no cognizance available for taking criminal action against the petitioner. Even if any cause of criminal action is arised against the accused, it could be taken u/s 181(4) Cr.P.C., either at Bhilai or Jamshedpur. Since the entire properties were received and retained at jamshedpur and Bhilai. Hence, the respondent police has not authority to investigate the case at Chennai, since no cause of criminal action taken place at Chennai."

4. Taking into consideration of the allegation made by the petitioner that the goods were supplied within the jurisdiction of the first respondent herein and the accused have received goods at Bombay and misappropriated the amount under the impression that the goods supplied therewith and also taking the decision of the Honourable Supreme Court in Rasiklal Dalpatram Thakkar v. State of Gujarat and others., reported in 2010 CrI.L.J. 884, in which the police is bound to investigate even if it is in the territorial jurisdiction and it is not for



the investigating officer in the course of investigation to decide whether a particular Court had jurisdiction to entertain a complaint or not. The Investigating Agency was required to place the facts elicited during the investigation before the Court in order to enable the Court to come to a conclusion as to whether it had jurisdiction to entertain the complaint or not. Without conducting such an investigation, it was improper on the part of the Investigating Agency to forward its report with the observation that since the entire cause of action for the alleged offence had purportedly arisen beyond its territorial jurisdiction the investigation should be transferred to the concerned Police Station. Section 156(3) Cr.P.C., contemplates a stage where the Magistrate is not convinced as to whether process should issue on the facts disclosed in the complaint. Once the facts are received, it is for the Magistrate to decide his next course of action.

5. Taking into consideration that the closure report filed by the CCB that it has no jurisdiction to investigate the case as if the cause of action arises within the jurisdiction either in the limit of Bhilai or at Jamshedpur cannot be the ground to reject. Hence the negative report filed by the first respondent and the order impugned in this petition are hereby set aside. The matter is remitted back to the first respondent to take it on his file and conduct the investigation afresh and to file either charge sheet or closure report, as the case may be, before the concerned Court.

6. With the above observation and direction, this Criminal Revision Case is allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The XI-Metropolitan Magistrate,
Saidapet, Chennai.
2. -Do-Thro, The Chief Metropolitan Magistrate,
Egmore, Chennai.



3. The Inspector of Police,
Central Crime Branch,
Egmore, Chennai.

4. The Public Prosecutor,
High Court, Madras.

Copy to

The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.M.Murali, Advocate Sr.84083

CRL.R.C.No.1711 of 2011

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srg 20/12/2018