*   **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%   Decided on: 31st July, 2018

\+   **W.P.(CRL) 182/2016 and Crl. M.A.No.998/2016 (Stay)**

ABHISHEK JOSHI ... Petitioner

Represented by: Mr.Salil Kumar Jha, Advocate

versus

STATE (REPRESENTED BY: NCT OF DELHI) & ANR .... Respondents

Represented by: Ms.Kamna Vohra, ASC for the State with Insp.Gurmail Singh, PS EOW

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition the petitioner seeks quashing of FIR No.474/2013 under Sections 406/420/468/471/120-B registered at PS Patel Nagar and being investigated by PS Economic Offences Wing, Delhi Police. Though respondent No.2 has been served, however, none appears on behalf of respondent No.2. In response to the petition, Status Report has already been filed by the State.

2. The arguments advanced by learned counsel for the petitioner in respect of the quashing of FIR in question are that firstly, the Delhi Police had no jurisdiction to register the FIR nor the Courts in Delhi to try the offence. Secondly, as per the contents of the FIR, no offence under Section 420 IPC is disclosed.

3. The above noted FIR was registered on the complaint of one

Ms.Paramjit Kaur who stated that she was a green card holder of United States of America. Her daughter namely Gurpreet Kaur was a permanent citizen of USA. Accused Kanwaljeet Singh was known to the complainant and complainant's family for the last 10 years being neighbour. In the last week of May, 2011, Kanwaljeet approached complainant's son namely Sandeep Anand to contact the complainant. The son of the complainant gave contact details of the complainant to Kanwaljeet who lured the complainant. According to Kanwaljeet Singh, he had a business plan through which complainant could earn US $4000 per month in United States of America and he could also earn ₹25,000/- per month in India. Kanwaljeet Singh stated that the complainant's daughter Gurpreet could also earn US $3000 per month. The entire communication was made telephonically and through e-mails and the son of the complainant was in talking terms in India with Kanwaljeet.

4. Kanwaljeet introduced one Abhishek Joshi, the present petitioner and represented him to be one of the leading businessman in U.K. and also gave the registration details of the company namely 'Godoggie Limited' to the complainant and stated that they were carrying on the trading in the name and style of 'Godoggie Online Shopping Pvt. Ltd.' and they were one of the market leaders in online shopping in U.K. and now wanted to expand their business and establish themselves in the market of USA. They also told the complainant and her son that the petitioner was the CEO of another company namely 'Gadgets arena'. The registration details and the business plan were shown to the complainant and her son. It is alleged that the petitioner took the Social Security Number of the complainant and the Californian Identity Card for the sake of checking complainant's credit limit.

Complainant was further told that the petitioner had also applied for the Visa and registration of the company in USA but the Visa of the petitioner had been rejected and they needed a person only for the purpose of opening the bank account for its operation for which complaint would get US $4000 per month and her daughter would get US $3000 per month. For this purpose, the accused including the petitioner visited the complainant number of times when complainant was in India and made promises. An agreement from the e-mail ID of the petitioner was also sent to the complainant, which was signed by the petitioner to lure her and to induce her to open a bank account through which they would manage and control the entire activity. To show his credibility, the petitioner and the other accused stated that they maintain luxury cars and had their own office and residence at Patel Nagar, New Delhi.

5. On opening of the account complainant was supposed to hand over all the relevant documents i.e. cheque book, pay-in-slips, company debit card, net banking kit including user name, passwords to the accused persons. After the complainant and her daughter parted with their valuable documents in the form of the Social Security number and Identity cards etc. as per the terms of the agreement, the petitioner thereafter did not get any agreement signed by the complainant. However, without the knowledge of the complainant, she and her daughter were named as Directors of the company and a second copy of the incorporation certificate was sent to the complainant through e-mail. Thereafter, the petitioner induced the complainant to open bank account in Las Vegas which was opened in the name of 'Godoggie Inc.'. Another account was also asked to be opened which the complainant in good faith and trust opened. The complainant

handed over cheque books, pay-in-slips, company debit card, net banking kit including user name and passwords to the petitioner. Thereafter, all the bank accounts were operated by the accused petitioner through the internet from his office at East Patel Nagar. On 5th August, 2011, the complainant came back to India and came to know that number of transactions had been done by the petitioner in her name making her liable to pay heavy taxes in USA.

6. Later petitioner sent an e-mail with an attachment to the complainant's daughter stating that the remuneration had been transferred but the attachment containing the slip was found to be a forged. Complainant also came to know that from Bank of America an overdraft balance of more than US $8,71,520 was taken on the account of the company maintained with the Bank of America, though the complainant had not made any overdraft in this regard. Further, the bank account maintained at Wells Fargo also showed overdraft balance of 17,000 dollars. Though the entire accounts were being maintained by the petitioner but since the name, Social Security number etc. of the complainant and her daughter were being used, the liability stood on the complainant and her daughter.

7. During the course of investigation, statement of account of M/s.Deutche and KarloTravel Services were seized from Kotak Mahindra bank branch at Rajinder Nagar, New Delhi and it was revealed that the partnership firm was in the name of Abhishek Joshi and Ashok Joshi, father of the petitioner. On an analysis of the bank statement it was found that approximately ₹45 lakh had been received in this account from the account of Godoggie Inc. Bank of America, USA. Further, in respect of cash receipts of the money also ID proof of the petitioner, his mother and brother

had been used for collecting money from Western Union Money Transfer through M/s.Click Finance Pvt. Ltd., Karol Bagh, New Delhi and on that basis approximately Us $20,000 (making approximately ₹9 lakh) were collected by the petitioner and his family. A further sum of US $17,969 amounting to approximately ₹8 lakh was also received by the petitioner and his family members. Though the petitioner produced to the complainant two documents purportedly issued by Wells Fargo bank and Bank of America mentioning that there was no outstanding in these accounts and the accounts were closed in October, 2011, however, notices issued by the bank in October/November 2011 were delivered at the address of the complainant and that the accounts were closed due to prolonged overdrawn status of the account of the complainant and she was directed to deposit the overdrawn money.

8. Considering the allegations noted above it cannot be said that either case is made out where the Delhi Police had no jurisdiction to register the FIR or investigate thereon for the reason part offence is committed within the jurisdiction of Delhi or that on the basis of complaint and the investigation carried out no offence of cheating or forgery is made out. It would also be appropriate to note that petitioner is wanted in two other FIRs being FIR No.230/2011 under Sections 420/120B IPC and FIR No.31/2015 under Sections 420/468/471/120B IPC both registered at PS EOW.

9. Petition is dismissed.

(MUKTA GUPTA)
JUDGE

JULY 31, 2018
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