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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

REVISION APPLICATION NO. 399 OF 2018

Hemant Govind Thorat **...Applicant.**

Versus

The State of Maharashtra &Anr. **...Respondents**

Mr. Sudeep Pasbola a/w Bhavesh Thakur I/b Mr. Rahul Arote for the Applicant.
Mr. H.S. Venegavkar, for the C.B.I.
Ms. J.S. Lohokare,APP for the State.

CORAM : A.S. GADKARI, J.
DATE : 17th July 2019.

P.C. :-

1] The present Revision under Section 397 of Cr. P.C. is directed against the Order dated 20th July 2018 passed below Exh.35 in Special Case No.3 of 2014 by the learned Special Judge (CBI-ACB), Pune rejecting the application preferred by the applicant under Section 4 read with sections 3 and 5 of the Prevention of Corruption Act, 1988 (For short P.C. Act) requesting to return the chargesheet to respondent No.2/CBI for its presentation before the Court having jurisdiction to try the matter for the offences punishable under section 8 of Prevention of Corruption Act read with 120-B of Indian Penal Code.

2] Heard Mr. Pasbola, the learned counsel for the applicant, Mr. Venegavkar, the learned Special P.P for the respondent No.2/CBI and Ms. Lohokare, the learned APP for the State. Perused the record annexed to the Revision Application.

3] Applicant is accused No.1 in CBI Case No. RC/PUNE/2013/A/0010.

It is the prosecution case that, Mr. Veer Singh is an accused in CBI Case No. RC/04(A) of 2013 and the Respondent No. 2, Pune was investigating the said crime. Mr. Veer Singh was remanded to police custody for 7 days in the said case and during his custodial interrogation, he informed Investigating Officer of the said case that, his Advocate Shri Hemant Thorat, (the applicant herein) and his assistant Mr. Laxman Deshmukh (accused No.2) demanded and accepted from him a total sum of Rs.27.00 lakhs in March/April 2013 for influencing and inducting Senior Officer from C.B.I by name Mr. Khare, Public Prosecutor by name Smt.Kashikar at Pune and to the Special Judge, Anti-Corruption Bureau Court at Pune and for arranging solvent surety in case of his release on bail. During investigation of the said case, Mr. Veer Singh also gave bank details of himself, as well as of his wife from whom money was withdrawn as per demand of both the accused persons and same was paid to the accused persons between 27.3.2013 to 3.4.2013. It is informed that, on 11 different occasions the amount aggregating to Rs.27.00 lakhs was paid to the applicant and his associate Mr. Laxman Deshmukh. A chart which is part of chargesheet, depicting the date of delivery of amount and places where it is accepted, is annexed at page No.35 of the present Application. After receipt of the said information, the present case was registered against both the accused persons for the offences punishable under sections 8 of Prevention of Corruption Act and 120-B of the Indian Penal Code on 1.5.2013.

After completion of the investigation, the respondent No.2 submitted final report before the Special Judge for CBI cases on 31.1.2014 at Pune. Applicant thereafter preferred the aforestated Application below Exh.35 before the learned Special Judge for CBI cases at Pune which has been rejected by the impugned Order dated 20.7.2018.

4] Mr. Pasbola, the learned counsel for the applicant submitted that, in view of section 4(2) of the Prevention of Corruption Act, every offence specified in section 3(1) of the P.C. Act shall be tried by the Special Judge for the area within which it was committed or as the case may be, by the Special Judge appointed for the case or where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by Central Government. He submitted that, an amount of Rs.15,40,000/- was accepted by the applicant at Hotel Yogiraj at Daund and therefore the Special Court for CBI at Baramati will have jurisdiction to try the said case. He submitted that, in view of section 4(2) of the Prevention of Corruption Act, the Special Court at Pune will have no jurisdiction to try the said case. In support of his contention, he relied on the decision of the Supreme Court in the case of CBI, AHD, Patna Vs. Braj Bhushan Prasad & Ors, reported in (2001) 9 SCC 432. However, Mr. Pasbola fairly conceded to the fact that, as rest of the amount was accepted at Shrirampur, even otherwise the CBI Court at Shrimapur will also have jurisdiction to try the present case. The thrust of argument of Mr. Pasbola in nutshell is that, in any event the Special Court for CBI at Pune will have no jurisdiction to try the present case.

He further submitted that, an offence as contemplated under section 8 of PC Act is for taking gratification by corrupt or illegal means in order to influence a public servant and therefore the important ingredient of the said offence is acceptance of money and therefore the place of acceptance is a relevant criteria for deciding the jurisdiction of the Court for conducting trial under the P.C. Act.

He therefore prayed that, the impugned Order passed by the Special Court for CBI at Pune may be set aside and the case of the applicant be transferred to the Court of Special Judge for C.B.I. Cases at Baramati.

6] Mr. Venegavkar, the learned Special P.P for the C.B.I. opposed the application and supported the Order passed by the Trial Court.

7] Perusal of the first information report and the chargesheet submitted by the respondent No.2 before the Special Court at Pune clearly indicates that, the applicant (accused No.1) with a view to influence and/or induce the Senior officer of CBI by name Mr. Khare, Public Prosecutor by name Smt. Kashikar of Pune and to the Special Judge, Anti-Corruption Bureau Court at Pune seized of the case registered at Pune bearing RC/04(A)/2013, accepted the said amount from the accused therein i.e. Mr. Veer Singh at Shrirampur and Daund. It is important to note here that, out of 11 occasions mentioned in the chargesheet, the applicant only on one occasion had accepted an amount of Rs.15,40,000/- at Hotel Yogiraj at Daund and on rest of the occasions had accepted money at Gypsy Hotel at Shrirampur .

8] According to me, accepting money on one solitary occasion at Hotel Yogiraj at Daund will not ipso facto give jurisdiction to the Special Court for CBI at Baramati, within whose jurisdiction the said place of Daund situates. The basic purpose for accepting the said amount was to influence the public servants stationed and located at Pune, dealing with a case filed and pending for adjudication before the Special Court at Pune. The applicant might have accepted the amount anywhere else in the State in furtherance of his intention to commit aforestated crime, but what is necessary to be deduced is that, the purpose for which the said inducement to part with amount to influence the public servant in a case pending at Pune was accepted. Accepting money for influencing a public servant anywhere else in State is not relevant and the said place will not give jurisdiction for a Court to conduct a trial for an offence under section 8 of P.C. Act. The the thrust of applicant to file chargesheet and conduct trial at Baramati is unconscionable.

A cumulative reading of Sec. 4(2) and Section 8 of the P.C. Act would lead to draw a safe conclusion that, in the present case the offence is committed within the jurisdiction of Special Judge for CBI Cases at Pune.

9] Thus for conducting a trial for the offences punishable under Section 8 of Prevention of Corruption Act, what is relevant and necessary is place where the public servant is stationed and also the place where the amount is accepted to influence the public servant. As noted earlier, on one solitary occasion, the applicant had accepted an amount from Mr. Veer Shingh at Hotel Yogiraj at Daund and therefore the said solitary incident will not ipso facto give rise for the jurisdiction to a Court to try the said offence within whose territory Daund comes and therefore the insistence of the applicant for conducting his trial at Baramati is unacceptable. Section 8 of Prevention of Corruption Act is a penal provision and what is necessary to be craved out from the said section is that, the offence i.e. taking gratification which has been committed by corrupt or illegal means to influence public servant is punishable under the said Act.

The decision relied upon by the learned counsel for the applicant i.e in the case of CBI, AHD, Patna (supra) is of no assistance to him, as in the said case the offence is committed under section 13 of the P.C. Act and therefore the Honourable Supreme Court in para 42 of the decision has held that, their Lordships have no doubt that, when the offence is under section 13(1(c) or section 13(1)(d) of the Prevention of Corruption Act, the sole determinative factor regarding the court having jurisdiction is the place where the offence was committed. However, the facts in the case in hand are totally different from the said case

10] It is important to note here that, though the applicant has accepted majority of amount involved in the present case from Mr. Veer Singh at Shrirampur and part amount at Daund, it was for the public servants seized of and dealing with CBI Case No.RC-04-(A)/2013 filed against Mr. Veer Singh, pending before the competent Court of jurisdiction at Pune and therefore the Special Court at Pune will only have jurisdiction to try the present case.

11] In view thereof, This Court finds that, the Trial Court has not committed any error while rejecting the application of the applicant by its impugned order. This Court finds no merit in the present Revision Application and is accordingly rejected.

(A.S.GADKARI, J.)