

AD. 15.
January 22, 2021.
MNS.

W. P. A. 11291 of 2020
(**Via video conference**)

Sri Surendra Das
Vs.
The State of West Bengal and others

Mr. Sanjib Seth

... for the petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas

...for the respondent-authorities.

Affidavit-of-service filed in Court today be
taken on record.

The grievance of the petitioner is that the
petitioner had permitted his driver, the private
respondent, to ply a commercial vehicle
belonging to the petitioner. Subsequently, the
petitioner came to know that the private
respondent was plying the truck in Haryana and
had sold the same in favour of a third party.

On such basis, petitioner lodged complaint
with the Bantra Police Station, Howrah.
However, no action has been taken by the police
as yet on such complaint.

Learned counsel for the petitioner further
argues that the private respondent, who is the

accused in the complaint of the petitioner, is residing within the territorial jurisdiction of the Domjur Police Station and, as such, being within Howrah, can easily be questioned by the Bantra Police Station.

Learned counsel appearing for the respondent-authorities submits a short report by the Officer-in-Charge of Bantra Police Station, which indicates that, upon a preliminary enquiry into the matter, it was revealed that the petitioner had authorised his driver, namely, Avinash Kumar Singh, to ply his truck. On February 8, 2020, the petitioner had made an agreement at Rohtak, Haryana with the said driver, to the effect that the driver would pay Rs. 75,000/- (Rupees seventy five thousand) only per month to the petitioner. Such report be kept on record.

In such conspectus, learned counsel for the respondent-authorities argues that the entire cause of action for the complaint arose in Haryana and the Bantra Police station cannot assume territorial jurisdiction to investigate into the matter. Moreover, keeping in view the contents of the report, it is arguable whether the petitioner has actually a good cause for initiating an investigation against his driver.

Be that as it may, it is evident from the materials on record that the alleged incident, in its entirety, took place within the territory of the State of Haryana. As such, it will be a futile exercise to direct the Bantra Police Station, situated at Howrah in West Bengal, to conduct such investigation.

The mere fact that the accused is residing at Domjur cannot confer jurisdiction upon the Howrah Police to investigate into the matter.

Even if the accused is residing at Howrah, no person can be arrested or examined at the drop of a hat, merely on the basis of a complaint lodged by a third party, without at least a preliminary enquiry in the matter.

In the present case, irrespective of the present residence of the accused, the enquiry and investigation has to be undertaken in Haryana, as the entire cause of action for the complaint arose there.

Only upon a *prima facie* satisfaction on such enquiry as regards the guilt of the private respondent, can the police, be it of Haryana or West Bengal, examine the said accused.

In such view of the matter, the writ petition does not merit success.

Accordingly, W. P. A. 11291 of 2020 is dismissed without any order as to costs.

However, this order will not prevent the petitioner from lodging complaints and taking legal action against the private respondent before the appropriate police station and other authorities in Haryana.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)