6th December, 2022
(D/L No.02)
(SKB)

W.P.A. 17203 of 2022

Upendranath Mandal and another
Versus
The Union of India and others

Mr. Biswaroop Bhattacharyya,
Mr. Nitai Chandra Saha,
Mr. Abhijit Chandra Majumder
... for the petitioners.

Ms. Avipsa Sarkar
... for the Union of India.

Mr. Soumya Majumder,
Ms. Shagun Baid
... for respondent no.2.

Mr. Arjun Roy Mukherjee,
Mr. Jayjeev Medhi
... for respondent no.3.

Ms. Riti Basu,
Ms. Piyali Pan,
Mr. Sayan Banerjee
... for respondent no.9.

Mr. Billwadal Bhattacharyya, ld. D.S.G.I.,
Mr. Sharta Chakraborty
... for the CBI.

The petitioners pray for cancellation of a Sanction Order passed by the Chairman-cum-Managing Director, MECON Limited dated 26th November, 2020 as well as a charge-sheet being No.14/2020 of 27th November, 2020 in connection with a Case Number RC-08(A)/2017. By the impugned Sanction Order, the Central Bureau of Investigation (CBI) was given the sanction of proceeding against the petitioners in connection with a tender floated by Durgapur Steel Plant on 11th May, 2013 and three bids received from three bidders. The Sanction Order mentions that the petitioner no.1 made illegal financial gains from the said tender by entering into criminal conspiracy with the other two bidders. The charge-sheet was framed on the succeeding day of the Sanction Order and the petitioner no.1 is now faced with imminent proceedings initiated by the CBI.

Learned counsel appearing for MECON Limited as well as the Union of India say that the writ petition is not maintainable. The point of maintainability is essentially premised on the territorial jurisdiction of this court envisaged under Article 226(2) of the Constitution of India.

The point of maintainability is being answered first.

Paragraph 43 of the writ petition states that pursuant to the Sanction Order and charge-sheet, the learned Trial Court at Ranchi has taken cognizance of the matter. The court is informed that the proceedings before the learned Trial Court at Ranchi are presently continuing.

The First Information Report (FIR) of 30th October, 2017 gives the factual conspectus of the matter. The FIR states that the first petitioner received the alleged amount of Rs.1.65 crores in various accounts existing either in his own name or in the names of relatives/friends when the said petitioner was posted as Senior Manager, Metallurgical Wing, MECON Limited, Ranchi. The contentions point to certain arrangements entered into between the petitioners and the other bidders who participated in the bid floated by Durgapur Steel Plant.

The Sanction Order reiterates the contents of the FIR, namely, that the petitioner no.1 as Senior Manager entered into a criminal conspiracy with the proprietors of the other two bidders and made illegal gains from the said transactions. The charge-sheet, as stated above, reiterates the facts, albeit, in a cryptic matter.

The facts in the present writ petition in relation to which the petitioners have sought cancellation of the Sanction Order and the charge-sheet clearly show that the alleged incident occurred in Ranchi where the petitioner no.1 was posted as Senior Manager of MECON Limited which is beyond the territorial jurisdiction of this court. Without going into the truth or falsity of the allegations, there is little doubt that the alleged acts took place in Ranchi where the bidders participated in the tender and the consequential acts in furtherance of the arrangements between the petitioners and the other two bidders also took place in Ranchi.

Section 19(1) of the Prevention of Corruption Act, 1988 makes it clear that the authorities can prosecute a person for offence punishable under sections 7, 11, 13 and 15 of the Act.

In the present case, quashing of the charge-sheet must hence revert back to the FIR. The FIR deals with the facts and shows that the facts which the petitioners must dislodge in order to exonerate themselves and the authorities must prove to implicate the petitioners took place in Ranchi. Further, Section 19(3) of the Act empowers the Court to take cognizance of an offence punishable under the said section. The learned Trial Court in Ranchi has already taken cognizance of the charge-sheet and the Sanction Order as pleaded in the writ petition.

Moreover, under Sections 19(3) and (4), the court taking cognizance of the matter is empowered to determine whether any error, omission or irregularity is present in the sanction order or whether the sanction has resulted in a failure of justice. Section 19(3) and (4) authorises the said court to come to such a finding notwithstanding the provisions in the Code of Criminal Procedure, 1973. Hence, before the Sanction Order or the charge-sheet is quashed, the competent court which has taken cognizance of the case must come to a finding under Section 19(3) and (4) of the 1988 Act. The writ court is not that court. This is all the more so when the competent court in Ranchi has already taken cognizance of the matter and is presently in seisin of the matter.

The contention of learned counsel appearing for the petitioners that the petitioners did not enter into any arrangements with the bidders in Ranchi or that the alleged amounts were said to have been deposited in bank accounts of the petitioners within the territorial jurisdiction of this court is an argument which is speculative and touches upon the merits of the case. Article 226(2) restricts the power of high courts to issue the writs and directions under Article 226(1) to the territories over which the High Court exercises jurisdiction and within which the cause of action arises wholly or in part.

In the present case, the petitioners have not been able to show that the series of facts which are material for the adjudication of the issues in the charge-sheet and the Sanction Order and which form part of the cause of action in the present case arose within the territorial jurisdiction of this court, either wholly or in part.

This court is hence of the view that having failed to succeed on that score, the writ petition cannot be entertained. The present writ petition is accordingly held to be not maintainable for the reasons stated above.

Mansukhlal Vithaldas Chauhan vs. State of Gujarat; (1997) 7 SCC 622 dealt with the validity of a sanction and does not help the petitioners on the question of maintainability. The petitioners can urge this point before the competent court in Ranchi.

W.P.A.17203 of 2022 is dismissed on the ground of not being maintainable.

Needless to say, the petitioners shall have the liberty of approaching the appropriate court for necessary relief.

(Moushumi Bhattacharya, J.)