



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 610 OF 2024

Goyal Industries & Ors.

Vs.

M/s. Choudhary Tar and Chemicals

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.S. Mardikar, Senior Advocate a/b. Mr. Rishabh Khemuka, Advocate for
the Petitioners.

CORAM : G. A. SANAP, J.

DATED : 12th AUGUST, 2024.

. Heard learned Senior Advocate for the petitioners.
Perused the record and proceedings.

2. In this criminal writ petition, challenge is to the order dated 11th August, 2023, passed by the learned 13th Metropolitan Magistrate, Calcutta, whereby the learned Metropolitan Magistrate is pleased to issue process against the petitioners for the offences punishable under Sections 406, 420 and 506 read with Section 120B of the Indian Penal Code, 1860.

3. Learned Senior Advocate, apart from questioning the correctness of the order on merits, submitted that there is a legal flaw in the order. It is pointed out that the petitioners, who are arrayed as accused in the complaint case, are the residents of Nagpur. It is pointed out that, in view of the mandate of Section 202 of the Code of Criminal Procedure, 1973 (for short "Cr.PC"), the learned Metropolitan Magistrate was required to postpone the issuance of process against the petitioners,

inasmuch as the petitioners have been residing beyond the jurisdiction of the learned Metropolitan Magistrate. Perusal of the impugned order would show that the inquiry, as contemplated under Section 202 of the Cr.PC, was not conducted, and bypassing this inquiry, the order of issuance of process has been passed.

4. Learned Senior Advocate pointed out that Coal Tar Pitch was delivered from Calcutta to Nagpur. It was received by the petitioners at Nagpur. It is submitted that, therefore, the part of cause of action has arisen within the territorial jurisdiction of this High Court. Learned Senior Advocate, relying upon a decision in the case of *Navinchandra N. Majithia Vs. State of Maharashtra and Others [(2000) 7 SCC 640]*, submitted that, under Article 226(2) of the Constitution of India, this petition is maintainable before this Court.

5. In view of the above, I proceed to pass following order:

ORDER

i] Issue notice to the respondent, returnable within six weeks.

ii] In the meantime, in view of the facts noted above, there shall be stay to the proceeding bearing C.S. No.76097/2023, pending before the learned 13th Metropolitan Magistrate, Calcutta, till next date.

(G. A. SANAP, J.)