



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 25423 of 2024 (O&M)
Date of Decision: 20.05.2024

Nilima Bhattacharya and another
..... Petitioners

Versus

State of Haryana and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Laksh Khanna, Advocate
for the petitioner.

HARKESH MANUJA, J. (ORAL)

CRM-22210-2024

Application is **allowed**, as prayed for, subject to all just exceptions. Exemption from filing the certified / true translated copies of Annexures P-1 to P-13 is granted.

MAIN CASE

The petitioners, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of FIR No. 51/2016 dated 20.02.2016, under Sections 420/120-B of IPC, registered at Police Station DLF Phase-I, Gurugram.

[2] Learned counsel for the petitioners has made the following two submissions:-

- (a) since the property in dispute is a security arrangement at Ghaziabad (UP) and even the petitioners are residing in Noida, the FIR (supra) was a total misuse of process of

law as no territorial jurisdiction is made out at Gurugram; and

- (b) the allegations put forth in the complaint were highly improbable, as the complainant cannot cite ignorance to the fact that the property was already in dispute with his brother, namely, Rajiv Gambhir and also, there being an Arbitration Award dated 22.05.2013 in his favour, though legally disputed by the petitioners.

[2.1] Learned counsel for the petitioners relies upon the judgment dated **08.08.2023**, passed by the Hon'ble Supreme Court in ***Criminal Appeal No. 2344 of 2023***, titled "***Salib @ Shalu @ Salim Versus State of U.P. & Ors***" bearing neutral citation 2023 INSC 687 to contend that if FIR registered is manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely as in such circumstances, complainant would ensure that the FIR/complaint is very well drafted with all the necessary pleadings.

[2.2] Learned counsel for the petitioners also relies upon the judgment dated **23.11.2020**, passed by the Hon'ble High Court of Delhi at New Delhi, in ***Crl.M.C. 1616/2020 & Crl.M.A. 10307/2020***, titled "***Ramesh Boghabhai Bhut Versus State & Anr.***" to contend that an inquiry and trial with respect of an offence shall be conducted by the Court within whose local jurisdiction occurrence in question is said to have taken place and thereby cause of action has arisen. Section 178 and Section 179 of Cr.P.C. are merely exceptions to this principle enumerated in Section 177, and their scope should not be enlarged on analogous consideration.

[3] After hearing learned counsel for the petitioners and going through the paper-book, this Court does not find any substance in the submissions made on behalf of the petitioners.

[4] Present FIR was registered under sections 420 and 120B of the IPC based on allegations that the petitioners deceived the complainant by inducing him to buy an industrial plot in Ghaziabad, but subsequently failed to complete the required formalities in the complainant's favor. Additionally, it was discovered that the petitioners had taken a loan against the disputed industrial plot. While the FIR does not specify where the alleged offenses occurred, the final report prepared under section 173 of the CrPC indicates that a meeting to sell the company's share to the complainant took place at his residence at 24 Crescent Marg, DLF Phase I, Gurgaon. Therefore, judgments relied upon by the Id. Counsel for the petitioner in **Ramesh Boghabhai Bhut's case** (supra) as well as in **Salib's case** (supra) is not applicable in the facts and circumstances of the present case.

[5] In this context, the argument by the petitioners' counsel regarding the lack of territorial jurisdiction becomes a disputed question of fact and law. It cannot be definitively stated that Gurgaon does not have territorial jurisdiction. Although the petitioners have the right to challenge this, the question of whether such a meeting occurred will be determined by evidence and trial. Therefore, no interference can be made at this stage on this basis.

[6] In view of the law down by the Hon'ble Apex Court in **"Satvinder Kaur v. State (Govt. of NCT of Delhi)"**, reported as (1999) 8 SCC 728, the FIR in question cannot be quashed on the ground of territorial

jurisdiction, as, at best, the petitioners can request for transfer of trial before the competent Court of jurisdiction.

[7] Further, it is not denied by the petitioners that they were paid various amounts on different dates through banking transactions which are detailed as below:-

- (1) Rs. 50,000/- via NEFT on 01.03.2014 to Arindam Bhattacharya;

(2) Rs. 2,50,000/- via RTGS on 03.03.2014 to Arindam Bhattacharya;

(3) Rs. 5,00,000/- via RTGS on 03.03.2014 to Arindam Bhattacharya;

(4) Rs. 1,00,000/- via NEFT on 04.03.2014 to Nilima Bhattacharya; and

(5) Rs. 9,50,000/- via RTGS on 05.03.2014 to Nilima Bhattacharya

Though learned counsel for the petitioners submits that the payment was returned to the complainants after being withdrawn from the bank by the petitioners under threat and even a representation / complaint was also made on behalf of the petitioners to this effect. But even this factual position is also a disputed question of fact and on account of allegations and counter allegations, becomes a matter of trial and cannot be gone into at this stage of proceedings under Section 482 Cr.P.C., requiring evidence in this regard.

[8] In view of the above, finding no merit in the above two submissions made on behalf of the petitioners, the present petition is hereby **dismissed**.

May 20, 2024

(HARKESH MANUJA)
JUDGE

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No