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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.03.2024

+ **CRL.M.C. 2005/2024**

AJAY GOYAL

..... Petitioner

Through: Mr.Sumit Kumar and
Mr.Shishir Singh, Advs.

versus

THE STATE AND ORS.

..... Respondents

Through: Mr.Aman Usman, APP with
Insp. Ajit Kumar.
Mr.Hirein Sharma, Mr.Saurabh
Goel and Mr.Aniket Gupta,
Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CRL.M.A. 7736/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 2005/2024 & CRL.M.A. 7737/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for quashing of FIR No.0003/2024 registered at Police Station: Badarpur, South-East District, Delhi under Sections 420/120B of the Indian Penal Code, 1860 (in short, 'IPC'), along with all other proceedings arising



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therefrom.

3. The above FIR has been registered on a complaint filed by the respondent no.2 alleging that, in the year 1998, the husband of the Complainant met *inter alia* the petitioner herein. One of the co-accused, that is, Mr.Shri Kant Verma, informed the husband of the Complainant that he is a resident of Dehradun and there, he deals in properties under the name and style of Promila Promoters and Anurag Promoters along with *inter alia* the petitioner herein and another person namely Mr. Darshan Lal Marwaha by making farm houses. He asked the husband of the Complainant to invest in the properties, as the prices are likely to rise and Dehradun is expected to be declared as the Capital. Based on these assurances, the Complainant alleges that she gave Rs.10,000/- to *inter alia* the petitioner herein and Mr. Darshan Lal Marwaha in the presence of Mr.Shri Kant Verma.

4. She further stated that they showed her the Plot No.34 in Khasra No.1532, Mauza Pondha, Tehsil Vikas Nagar, ad-measuring an area of 1145 sq.yards. She thereafter paid instalments till the year 2000 *inter alia* to the petitioner herein, and after receiving the full amount, the property documents were registered at Vikas Nagar, Dehradun on 28.11.2000. She thereafter requested for the mutation of the said plot, however, was informed that there is some dispute going on with the Government regarding the said plot and, therefore, mutation will be done at a later stage.

5. The Complainant states that she waited for the mutation to be done, but it is only later that she came to know that in the year 2018, pursuant to an order passed by the Supreme Court, the land has come



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back to the owner. She states that she went to the plot and decided to get a boundary wall constructed. There, she met another person, namely, Mr.Manoj, who was getting the boundary wall constructed of one of the acquaintances of the Complainant. He stated that he would get the mutation done for them.

6. She states that during the same period, the petitioner herein offered to buy the land from them, however, she refused.

7. She states that on the assurance of Mr.Manoj that he would get the property mutated in her favour and would get the boundary wall constructed, she further gave an amount of Rs.10,000/- to Mr.Manoj on 25.10.2020 at her house at Mithapur. He demanded original documents from the Complainant, however, the Complainant only gave the photocopy of those documents. She states that an amount of Rs.90,000/- was further transferred from the account of her husband to Mr.Manoj.

8. She states that in spite of taking money, Mr.Manoj did not get the mutation done and kept telling the Complainant to sell the said plot. He also made the petitioner herein meet the Complainant, who again asked the Complainant to sell the land. The Complainant states that she refused this offer.

9. She states that Mr.Manoj kept asking for the original documents, however, the Complainant again refused to hand over the original documents. Later Mr.Manoj came to the house of the Complainant and in conspiracy with others including the petitioner herein, obtained the original property documents from the Complainant for purposes of mutation, however, later it was learnt



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that he along with the petitioner herein and others fabricated property documents and sold the said land to third parties thereby causing a loss of around Rs.2 crores to the Complainant.

10. The learned counsel for the petitioner submits that the said FIR could not have been registered at Delhi as no part of the offence alleged has taken place at Delhi. He submits that the land in question is situated at Dehradun, Uttarakhand; the property documents of the Complainant were also prepared there; the alleged fabricated documents are also stated to have been prepared at Dehradun; and, therefore, the entire offence, if any, is stated to have been committed at Dehradun, that is beyond the jurisdiction of the police and the Courts at Delhi.

11. Placing reliance on the judgment of this Court in **Ramesh Boghabhai Bhut v. State & Anr.**, 2020 SCC OnLine Del 1475, he submits that merely because some amounts are stated to have been paid at Delhi, that too in the year 2000, it would not constitute a part of the cause of action so as to give jurisdiction to the police at Delhi or to the Courts situated at Delhi.

12. He further submits that the statement of the Complainant that the original documents were handed over to Mr. Manoj at Delhi, is false as is evident from the statement made in the complaint/FIR itself that earlier attempts by Mr. Manoj to obtain the original documents had been refused by the Complainant. He submits that a false plea is therefore taken in the complaint to somehow vest jurisdiction with the police at Delhi to lodge the above FIR.

13. The learned counsel for the petitioner also submits that the



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Complainant has filed a civil suit at Dehradun. Similarly, M/s Promila Promoters Pvt. Ltd., which claims ownership over the said land, has also filed a suit *inter alia* against the Complainant at Dehradun. He submits that this itself shows that the entire cause of action has arisen at Dehradun.

14. He submits that as the offence charged is Section 420 of the IPC, and in terms of Section 182 of the Cr.P.C., the same has to be tried by a Court within whose local jurisdiction the property was delivered by a person deceived or was received by the accused person.

15. I have considered the submissions made by the learned counsel for the petitioner, however, I find no merit in the same.

16. As has been stated hereinabove, it is the case of the Complainant that she had handed over the original documents in relation to her property to the co-accused Mr. Manoj at her residence at Delhi on a promise that the same are required for purposes of carrying out mutation of the land. She alleges that these documents were however, used to fabricate further documents and to sell the land in dispute. This would, therefore, be a vital part of the acts constituting the offence and is alleged to have taken place within the jurisdiction of the Police Station: Badarpur.

17. Section 177 of the Cr.P.C. states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

18. Section 178 of the Cr.P.C. reads as under:

“178. Place of inquiry or trial.—(a) When it is uncertain in which of several local areas an offence was committed, or



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(b) where an offence is committed partly in one local area and partly in another, or (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”

19. Therefore, in terms of Section 178 of the Cr.P.C., where the offence consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

20. Section 179 of the Cr.P.C. states that when an act is an offence by reason of anything which has been done or of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

21. In the present case, as per the Complainant, a vital constituent of the offence is in obtaining the original documents from the Complainant by Mr. Manoj on a false promise of the documents being required to carry out the mutation of the land in favour of the Complainant.. Therefore, in my view, it cannot be said that the FIR has been wrongly registered at the said Police Station.

22. As far as the plea of the petitioner that the Complainant has falsely alleged that the original documents of the land had been handed over by her to Mr. Manoj at Delhi, the same would require investigation and for the said reason, the FIR cannot be quashed at the



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present stage.

23. As far as the plea of the petitioner regarding the civil suits that are pending in the Courts at Dehradun, they can have no effect as far as the registration of the FIR at Delhi is concerned. As noted hereinabove, if any of the part of the offence has occurred within the jurisdiction of Delhi, the FIR can be registered at Delhi and can be investigated and tried by an appropriate Court at Delhi.

24. As far as the reliance of the learned counsel for the petitioner on Section 182 of the Cr.P.C. is concerned, in my view, the said provision reads against the interest of the petitioner. In the present case, the documents in question are alleged to be handed over by the Complainant to Mr. Manoj, co-accused at Delhi.

25. In **Ramesh Boghabhai Bhut** (Supra), this Court was confronted with the fact where the entire transaction had taken place in Gujarat. In the peculiar facts of the said case, therefore, this Court held that the FIR had been wrongly registered at Delhi as no part of the offence had been committed within its jurisdiction. I may quote from the judgment as under:

“23. It is trite 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. Ordinarily the case shall be tried by the Court in whose local limits the offence was committed, which is in the state of Gujarat in relation to the present dispute. In addition to



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the aforesaid, for determination of offences alleged to have been committed under Section 406 of the Penal Code, 1860 1860, Section 181 of the Code of Criminal Procedure, 1973 lays down the jurisdiction of such court where “the offence was committed or any part of the property which is the subject of the offence was received or retained”.

24. *In the case in hand, the transaction between the parties in relation to transaction of goods took place in Gujarat, the representations and meeting took place in Gujarat, the goods were shipped from Pipavav Port Gujarat, bill of lading were released from Ahmedabad Gujarat, the invoices were raised by the entity based out of Gujarat and the jurisdiction of such invoices were subject to the court of Gujarat, therefore, applying the direct principles of Section 181, only the court situated in Gujarat can exercise jurisdiction over the alleged criminal breach of trust, if any.*

25. *It is pertinent to mention here that for the application of Section 179, the primary consequence should be considered in determining jurisdiction and not any secondary consequence. If the primary consequence completes the offence, the mere fact that there is a more remote consequence will not make Section 179 applicable. Therefore, the consequence of the offence, if any, is sustained by the Tiger Logistics Branch situated in Gujarat. It cannot possibly be the argument of the Complainant/Respondent No. 2, that tomorrow, if Tiger Logistics were to send an email from its Hyderabad office demanding repayment of money, then courts in Hyderabad will have jurisdiction over the matter. Such interpretation of law is absurd and deserves to be outrightly rejected.”*

26. The above judgment would, therefore, have no application to the facts of the present case.



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27. It is settled law that the power vested in the High Court to quash an FIR or a Complaint, must be exercised sparingly and only in rare and exceptional cases. In my view, the petitioner has been unable to make out a case for exercise of such power.

28. In view of the above, I find no merit in the present petition. The same is, accordingly, dismissed. The pending application also stands disposed of as infructuous.

NAVIN CHAWLA, J

MARCH 12, 2024/ns/RP

Click here to check corrigendum, if any