



2024:DHC:599



\$~48

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

Date of decision: 25.01.2024

+ **CRL.M.C. 6954/2022 & CRL.M.(BAIL) 1557/2022
SUMIT KUMAR**

..... Petitioner

Through: **Mr.Pradeep Kumar Kaushik &
Dr. Sunil Kumar, Advs.**

versus

MANOJ KUMAR AND ORS.

..... Respondent

Through: **Mr.Arendra Singh, Adv. for
R-1.
Mr.Satyakam, ASC for
GNCTD.
Mr.Hirein Sharma, Adv. For R-
4 (Delhi High Court).**

**CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA**

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), praying for the following reliefs:-

"i) quash the impugned judgement and order dated 18/05/2022 and 24/05/2022 passed by the Ld.M.M. Rouse Avenue Court Complex, New Delhi in Criminal Complaint No. of 2016, being passed without jurisdiction; OR,

IN ALTERNATIVE



2024:DHC:599



ii) adjudicate, the District Court with which the territorial jurisdiction lies to entertain the Criminal Appeal against the impugned judgement and order dated 18/05/2022 and 24/05/2022 passed by the Ld.M.M., Rouse Avenue Court Complex, New Delhi; and”

2. The petitioner has not made any submission on prayer (i) quoted hereinabove. The submissions of the learned counsel for the petitioner are to address only prayer (ii), which was made in the alternative in the petition.

3. It is the case of the petitioner that the respondent no.1 had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short, ‘NI Act’), being CC No. 616/2013, against the petitioner before the learned Metropolitan Magistrate, East District, Karkardooma Courts, Delhi. It is stated that the said complaint was transferred to the Court of the learned Metropolitan Magistrate, New Delhi District, Patiala House Courts, vide the order dated 06.01.2016 passed by the learned District and Sessions Judge, East District, Karkardooma Courts, Delhi. Thereafter, by a judgment dated 18.05.2022 passed by the learned Metropolitan Magistrate (NI Act)-04, Rouse Avenue Court Complex, Delhi, the petitioner has been convicted for committing the offence under Section 138 of the NI Act. By the order dated 24.05.2022, the petitioner was sentenced to undergo simple imprisonment for 6 months and pay a fine of Rs. 10,00,000/-.

4. It is contended that the petitioner, considering that the



2024:DHC:599



complaint was originally filed before the learned Metropolitan Magistrate, East District, Karkardooma Courts, Delhi, filed an appeal against the judgment dated 18.05.2022 and the order on sentence dated 24.05.2022, before the learned Sessions Judge at the Karkardooma Courts. An objection was raised on the maintainability of the said appeal on the grounds of lack of territorial jurisdiction. On this, the petitioner filed an application before the learned Additional Sessions Judge-04, New Delhi District, Patiala House Courts, New Delhi seeking clarification that if the Sessions Court at New Delhi District, Patiala House Court would have the territorial jurisdiction to entertain the appeal. The said application was dismissed by the learned Additional Sessions Judge-04, New Delhi District, Patiala House Courts, New Delhi, vide order dated 22.08.2022, stating that the same is not maintainable and it is for the petitioner to address arguments on jurisdiction before the concerned Court where the appeal has been filed and it is for that Court to take a decision on the same.

5. The petitioner withdrew the appeal filed at the Karkardoma Court, vide order dated 17.09.2022, and filed the present petition before this Court, praying for the above quoted relief.

6. The learned counsel for the petitioner submits that the petitioner tried to file the appeal against the judgment dated 18.05.2022 and the order on sentence dated 24.05.2022, before the New Delhi District, Patiala House Courts, that has the



appellate jurisdiction over appeals filed against the orders passed by the learned Metropolitan Magistrate (NI Act)-04, Rouse Avenue Court Complex, Delhi, however, the Registry of the Patiala House Courts refused to accept the same, forcing the petitioner to file the present petition in view of the Notification dated 22.10.2008 passed by this Court.

7. On the other hand, the learned counsel for respondent no.1 submits that the present petition is a gross abuse of the process of Law. He submits that by the order dated 06.01.2016, the learned District and Sessions Judge, East District, Karkardooma Courts, Delhi was pleased to transfer the complaint filed by respondent no.1 to the competent Court at the New Delhi District, Patiala House Courts. Thereafter, the trial progressed in the complaint, resulting in the judgment dated 18.05.2022, convicting the petitioner of the offence under Section 138 of the NI Act, and the order dated 24.05.2022, sentencing him for the same. He submits that the learned Metropolitan Magistrate (NI Act)-04, New Delhi District, Rouse Avenue Court Complex, Delhi has specifically rejected the plea of the petitioner on lack of jurisdiction.

8. He submits that an appeal against the order passed by the learned Metropolitan Magistrate (NI Court)-04, Rouse Avenue Court Complex, Delhi lies with the learned Sessions Court at the New Delhi District, Patiala House Courts, New Delhi. He submits that despite knowing this fact and only to abuse the process of the Court, the petitioner filed the appeal before the



2024:DHC:599



Court of Sessions Judge at the East District, Karkardooma Courts, Delhi.

9. He submits that the learned Additional Sessions Judge, Karkardooma Courts, Delhi pointed out the lack of territorial jurisdiction in that Court to entertain the appeal. The petitioner instead of arguing the appeal before that Court or withdrawing the same to file the same before Court of appropriate jurisdiction, that is, the Patiala House Courts, preferred an application seeking clarification from the Additional Sessions Judge-04, New Delhi District, Patiala House Courts, New Delhi, in a peremptory manner, to seek purported certification that it had the jurisdiction to entertain the appeal if filed by the petitioner. He submits that this application was rightly dismissed by the learned Additional Sessions Judge-04, New Delhi District, Patiala House Courts, New Delhi, vide order dated 22.08.2022. He submits that the petitioner at this stage withdrew the appeal from the Karkardooma Courts, however, never presented the same before the Patiala House Courts. He submits that the plea of the petitioner that he tried to file the appeal before the Patiala House Courts, which was not accepted by the Registry, is totally bogus and false, and has been concocted only to maintain the present petition.

10. The learned counsel for the respondent no.4 submits that an appeal against an order passed by the learned Metropolitan Magistrate (NI Court)-04, New Delhi District, Rouse Avenue Court Complex, Delhi would lie before the competent Court in



2024:DHC:599



the Patiala House Courts Complex, as the administrative control over the learned Metropolitan Magistrate (NI Act)-04 remains with the Courts at the Patiala House Court Complex.

11. I have considered the submissions made by the learned counsels for the parties.

12. As is evident from the above, the Complaint was originally filed by the respondent no. 1 before the learned Metropolitan Magistrate, East District, Karkardooma Courts, Delhi. The said complaint was transferred to the Court of the learned Metropolitan Magistrate, New Delhi District, Patiala House Courts, vide the order dated 06.01.2016 passed by the learned District and Sessions Judge, East District, Karkardooma Courts, Delhi. The plea of the petitioner on lack of jurisdiction of the Court of learned Metropolitan Magistrate (NI Act)-04, Rouse Avenue Court Complex, Delhi, has been rejected by the said Court in its judgment dated 18.05.2022. In the said judgment, the learned Metropolitan Magistrate has observed as under: -

“12.1 On conspectus reading of statement of CW2, statement of account Ex. CW2/B filed by CW2 at the stage of pre-summoning evidence, orders dated 17.12.2015, 21.12.2015 and 06.01.2016, it is evident that this Court has territorial jurisdiction as account of complainant is maintained at HDFC Bank, Bhikaji Cama Place. Further when the present matter got transferred from Karkardooma Courts to Patiala House Courts, CW1 was cross examined by Ld. Counsel for accused and no question or suggestion was asked or given regarding the issue of jurisdiction. Even



2024:DHC:599



no prejudice was caused to accused during the pendency of present case. Issue of jurisdiction raised at final hearing of the case berefts in force.”

13. As the judgment convicting the petitioner has been passed by the learned Metropolitan Magistrate, Rouse Avenue Court, the appeal against the same was maintainable only before the Sessions Court at Patiala House. However, the petitioner, for obviously oblique motive, filed the same before the Sessions Court at the Karkardooma Courts, Delhi. The filing of the appeal before the Karkardooma Courts, Delhi itself was mischievous. This mischief was carried forward by the petitioner by moving an application before the learned Additional Sessions Court-04, New Delhi District, Patiala House Courts, seeking peremptory clarification on the jurisdiction. Even on dismissal of the said application, the petitioner did not stop the mischief, and simply withdrew his appeal before the learned Sessions Court, East District, Karkardooma Courts, Delhi.

14. Though the petitioner contends that the Registry of the Patiala House Courts, New Delhi refused to accept the appeal, this appears to be a false plea to maintain the present petition. The petitioner, in order to justify his mischievous intents, is relying upon a screenshot of the E-Court Service/Application which shows the concerned Police Station for the complaint filed by the respondent no. 1 as still New Ashok Nagar. This plea of the petitioner cannot be accepted as the petitioner is



2024: DHC: 599



fully aware of the facts of his case, including the transfer of the Complaint and the dismissal of his objection on the lack of territorial jurisdiction of the Rouse Avenue Court. The petitioner, therefore, cannot rely upon this error at the website/Application. Once the order impugned in the appeal is passed by a Metropolitan Magistrate at Rouse Avenue Court, the Registry at the Patiala House Court would not refuse to accept the appeal for listing. In any case, the prayer of the petitioner is not directed against the Registry of the Patiala House Court.

15. In my view, the petitioner is merely trying to delay the final adjudication of the complaint that has been filed by the respondent no.1. By this mischievous conduct, the petitioner has, in fact, delayed the process by more than one and a half year.

16. I, therefore, find no merit in the present petition. The same is, accordingly, dismissed. The petitioner shall pay costs of Rs.50,000/- to respondent no.1.

17. It is made clear that without the payment of the abovementioned costs, any appeal filed by the petitioner, if at all, challenging the judgment dated 18.05.2022 and the order on sentence dated 24.05.2022, shall not be entertained by any Court.

18. It is also made clear that this Court has not expressed any opinion on the question of condonation of delay in filing of any such appeal that the petitioner may file.



2024: DHC: 599



19. The pending application is also disposed of having been rendered infructuous.

NAVIN CHAWLA, J

JANUARY 25, 2024/rv/AS

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: SUNIL
Signing Date: 29.01.2024
19:15:41

CRL.M.C. 6954/2022

Page 9 of 9