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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2431/2023 & CRL.M.A. 22896/2023**
SONA BANSALPetitioner

Through: Mr. Sermon Rawat, Mr. Vansh Kapoor, Mr. Vikas Rathee, Ms. Aastha Vishwakarma and Mr. Harshit Jain, Advocates.

versus

ANURAG TIWARY & ANR.Respondents
Through: Mr. Anup Kumar Sinha, Advocate for R-1.
Inspector Dharmendra Pratap Singh,
P.S. EOW, New Delhi.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
31.01.2025

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1. The present writ petition under Section 226 of the Constitution of India, 1950, is directed against the Complaint bearing case no. 20/2016 titled as “*Anurag Tiwary v. Vijay Khurana & Ors.*”, filed under Sections 420, 406, 384, 120B, 506 and 34 of the Indian Penal Code, 1860¹. The said compliant is pending before the Court of Chief Judicial Magistrate, Jamshedpur.

2. At the outset, since the Petitioner seeks quashing of a complaint pending before the Chief Judicial Magistrate, Jamshedpur, a court of competent jurisdiction, this Court inquired into the basis for invoking its territorial jurisdiction. In response, counsel for the Petitioner contends that the alleged transaction forming the foundation of the complaint, particularly

¹ “IPC”



the dealings under the Memorandum of Understanding² dated 17th June, 2013, transpired in Delhi. He argues that the execution of the MoU, payment of the entire sum to the Complainant, and the events giving rise to the present dispute, all occurred in Delhi. Additionally, he urges that the MoU itself contains a jurisdiction clause expressly vesting exclusive jurisdiction in the courts of Delhi, reinforcing the claim that this Court is the appropriate forum for adjudication. The counsel contends that even as per the allegations in the complaint, the cause of action originated in Delhi. Further, relying on the judgment of the Supreme Court in *Navinchandra N. Majithia v. State of Maharashtra & Ors.*³ he submits that a High Court has jurisdiction to entertain a writ petition under Article 226(2) of the Constitution, if any substantial part of the cause of action arises within its territorial jurisdiction. Accordingly, he asserted that this Court has jurisdiction to entertain the present petition and quash the impugned complaint.

3. The Court finds no merit in the arguments advanced by the Petitioner's counsel. It is well-established that a High Court may exercise its writ jurisdiction under Article 226 in respect of authorities or tribunals situated outside its territorial jurisdiction. However, such an exercise is neither automatic nor absolute. The invocation of jurisdiction must be justified by the circumstances of the case, ensuring that the relief sought is appropriately adjudicated by the Court most intimately connected with the dispute.

4. Pertinently, in the present case, the Petitioner, along with the Authorised Representative and other directors of ABW Infrastructure Ltd.

² "MoU"

³(2000) 7 SCC 640



have repeatedly availed legal remedies within the territorial jurisdiction of the Jharkhand High Court. The accused persons, including the Petitioner had earlier challenged a summoning order dated 30th March, 2016 issued by the SDM, Jamshedpur by filing Criminal Revision Petition No. 195/2016 before the District & Sessions Court, Jamshedpur, which falls within the jurisdiction of the Jharkhand High Court. That Criminal Revision petition was dismissed through a reasoned order dated 31st May, 2018.

5. Dissatisfied with the outcome, the Petitioner, along with other accused persons, assailed the same summoning order along with the Sessions Court's decision in Writ Petition (Crl.) No. 213/2018 before the Jharkhand High Court under Articles 226 and 227 of the Constitution. The said writ petition was dismissed for non-prosecution on 17th November, 2018, due to failure to comply with the order dated 23rd October, 2018 which was a peremptory order. Pertinently, in the said writ petition before the Jharkhand High Court, the accused persons (including the Petitioner herein) had raised substantially the same grounds, as have been raised in the present writ petition before this Court. Furthermore, the Petitioner pursued additional proceedings before the Jharkhand High Court challenging orders passed in impugned Complaint case, being - Cr.M.P. No. 2109/2018, filed by ABW Infrastructure Ltd., through the representative and Cr.M.P. No. 2111/2018, wherein the Petitioner herself was also made a party to the proceedings.

6. These proceedings unequivocally establish that the Petitioner has consistently sought recourse before the appropriate forum, i.e., the courts falling within the jurisdiction of the Jharkhand High Court. Having voluntarily submitted to the jurisdiction of the Jharkhand High Court on



multiple occasions, it is inappropriate for the Petitioner to now circumvent and indulge in forum shopping. If the Petitioner intends to invoke writ jurisdiction under Article 226 for quashing the criminal proceedings, she must do so before the High Court of Jharkhand, which has the most proximate jurisdiction over the matter, rather than attempting to forum-shop by filing the present petition before this Court.

7. The jurisdiction clause in the MoU executed between ABW and Respondent No. 1 governs disputes arising out of or in connection with the contractual relationship between the parties. However, such clauses are confined to civil disputes and do not extend to criminal proceedings, which are governed by statutory provisions and principles distinct from contractual stipulations. In matters of criminal law, territorial jurisdiction is determined based on where the alleged offence occurred, where its consequences ensued, or where the investigation is being conducted, rather than by any contractual agreement between private parties. That being said, this Court need not engage in a factual determination as to whether any part of the alleged cause of action for the criminal complaint arose in Jamshedpur or in Delhi. The question of territorial jurisdiction concerning the pending criminal proceedings falls squarely within the purview of the jurisdictional High Court, i.e., the Jharkhand High Court, which is best suited to adjudicate upon the issue. If the Petitioner seeks to challenge the territorial jurisdiction of the criminal proceedings, the appropriate recourse is to raise such contentions before the competent court having supervisory jurisdiction over the case, rather than invoking the extraordinary writ jurisdiction of this Court

8. The Petitioner has relied on the judgment in *Navinchandra N.*



Majithia v. State of Maharashtra & Ors. to argue that this Court has jurisdiction to entertain the present petition under Article 226 of the Constitution. In *Navinchandra*, the Supreme Court held that a High Court's writ jurisdiction under Article 226 extends to cases where a part of the cause of action has arisen within its territorial limits, even if the authority against whom relief is sought is located outside its jurisdiction. However, the reliance on this case is wholly inapplicable. The facts of *Navinchandra* are materially different from the present case. In *Navinchandra*, the Petitioner had demonstrated that substantial events forming the basis of the alleged offence had occurred within the territorial jurisdiction of the Bombay High Court. Consequently, the Bombay High Court was found to have jurisdiction. However, in the present case, the Petitioner has already invoked the jurisdiction of the Jharkhand High Court on multiple occasions in relation to the very same criminal proceedings. The Petitioner, along with other directors of the accused company filed a Criminal Revision Petition before the District & Sessions Court, Jamshedpur, as well as a writ petition before the Jharkhand High Court seeking the same relief. These actions establish that the Petitioner has submitted to the territorial jurisdiction of the Jharkhand courts and, therefore, cannot now seek to forum shop by invoking this Court's jurisdiction.

9. The present criminal case is pending before the Chief Judicial Magistrate, Jamshedpur, and is being prosecuted within the territorial jurisdiction of the Jharkhand High Court. Hence, any challenge to those proceedings, whether on jurisdictional grounds or otherwise, must be raised before the Jharkhand High Court and not before this Court. Therefore, the judgment in *Navinchandra* does not aid the Petitioner's case and is



distinguishable on facts and principles.

10. The Petitioner has also sought a direction from this Court to transfer Criminal Complaint No. 20/2016 pending before the Chief Judicial Magistrate, Jamshedpur, to a competent court in Delhi. This relief, however, is wholly misconceived and legally untenable. The power to transfer criminal proceedings is governed by Sections 406 and 407 of the Code of Criminal Procedure, 1973⁴ (now Sections 446 and 447 of Bharatiya Nagarik Suraksha Sanhita, 2023⁵). Section 406 of CrPC vests exclusive jurisdiction in the Supreme Court to transfer a criminal case from one state to another, if it is deemed expedient for the ends of justice. Section 407 of CrPC (now Section 447 of BNS) empowers the High Court to transfer a criminal case from one court to another within the same state. Since the case in question is pending before the Chief Judicial Magistrate, Jamshedpur, a court in Jharkhand, any request for transfer to another state (Delhi) would necessarily fall under Section 406 of CrPC, which can only be entertained by the Supreme Court. This Court lacks jurisdiction to grant such a transfer.

11. In light of the above observations, the present writ petition lacks merit and is accordingly dismissed along with pending applications.

12. It is clarified that that the Court has not commented on the merits of the case and accordingly all rights and contentions of the parties are left open.

SANJEEV NARULA, J

JANUARY 31, 2025/as

⁴ “CrPC”

⁵ “BNSS”