



2025:DHC:6743



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 12.08.2025*+ **CRL.M.C. 6573/2022****SHISHU PAL SINGH**

.....Petitioner

Through: Mr. Rakesh Kumar Burman,
Advocate

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with Mr.
Chandrakant, Advocate**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the instant petition, the petitioner seeks setting aside of the impugned order dated 22.07.2022 passed by the learned Additional Sessions Judge, District North, Rohini, Delhi [hereafter 'Sessions Court'] in Criminal Revision No. 70/2019, and the impugned order dated 10.12.2018 passed by the learned Metropolitan Magistrate-04, North, Rohini Courts, Delhi [hereafter 'Magistrate'] in CC No.11463/2016 titled '*ShishuPal Singh vs. Anupam Sharma & Anr.*', and prays for an order/direction to SHO, P.S. Shahabad Dairy, Delhi to investigate the case against respondent no. 2 and 3 for the offences mentioned in the complaint.



2025:DHC:6743



2. Briefly stated, the facts of the present case are that the revisionist/complainant and the respondents had been well acquainted with each other for about fifteen years. The respondents had been introduced to the revisionist/complainant through a common friend, namely, Manmohan Singh Bisht, resident of Nainital, Uttarakhand. The revisionist/complainant alleged that he had been lured and induced by the respondents to purchase a piece of land at Bhakrakot, Tehsil Sult, District Almora, Uttarakhand. It was further alleged that the respondents had proposed and represented to the revisionist/complainant that the said land belonged to Shri Alam Singh, resident of Bhakrakot, Patti Talia, Tehsil Sult, District Almora, Uttarakhand, and that both the respondents had promised to execute a registered sale deed in his favour in respect of the said land. The revisionist/complainant had paid a sum of ₹27 lakhs to the respondents, and the deal had been finalised at H.No. F-1/65, Sector-II, Rohini, Delhi. It was further alleged that the respondents had failed to execute any sale documents in favour of the revisionist/complainant and had thereby committed cognizable offences punishable under Sections 379/406/420/468/120-B/34 of the IPC. The revisionist/complainant had filed a complaint at Police Station Prashant Vihar, Delhi on 17.06.2016 and had also forwarded the same to the concerned DCP on 29.06.2016. Since no action had been taken by the police, the revisionist/complainant had filed an application under Section 156(3) read with Section 200 of the Cr.P.C. on 29.08.2016.



2025:DHC:6743



3. The learned Magistrate took about two years and four months to decide the said application and, *vide* order dated 10.12.2018, dismissed the same and declined to take cognizance under Section 200 of Cr.P.C., basing its decision on the status report filed by PS Prashant Vihar to the effect that the Court lacked territorial jurisdiction over the matter and that no cause of action had arisen within its jurisdiction.

4. Aggrieved thereby, the petitioner had, on 05.04.2019, filed a criminal revision petition under Section 397 of Cr.P.C. challenging the order dated 10.12.2018 before the Court of the learned Sessions Court. The learned Sessions Court took about three years and three months to decide the said revision petition and, *vide* order dated 22.07.2022, dismissed the same, holding that the learned Magistrate had rightly dismissed the complaint/application under Section 156(3) of Cr.P.C., and declined to take cognizance under Section 200 of Cr.P.C. on the ground of lack of territorial jurisdiction.

5. The learned counsel appearing for the petitioner has argued that the learned Magistrate erred in dismissing the application filed under Section 156(3) of Cr.P.C. on the ground of lack of territorial jurisdiction. It is submitted that part of the payment towards the purchase of the land in question had been made at Delhi and, therefore, the concerned Magistrate at Delhi had jurisdiction to entertain the complaint, notwithstanding the fact that the sale deed was to be executed in Uttarakhand. It is further contended that the



2025:DHC:6743



accused had assured the complainant that he would get the proposed company registered at Delhi and had obtained the signatures of the complainant and his wife on certain papers, with an assurance that the Directors Identification Number would be obtained shortly. However, later the accused had refused to transfer the company in their names and had demanded a sum of ₹20 lakhs from them. The learned counsel submits that although the allegation regarding a fake and bogus sale deed shown to the complainant on 18.02.2008 is the subject matter before the Sub-Registrar, Almora, Uttarakhand, the courts at Delhi would still have jurisdiction in the present matter. It is argued that, under the pretext of delivering possession of the land in question, the accused had handed over a photocopy of a registered sale deed along with a copy of the mutation and *khatoni* registered in Uttarakhand, but the land had not been transferred in the complainant's name. On the contrary, it was later discovered that the land was mortgaged with Axis Bank, Kashipur. Thus, it is submitted that the accused had misrepresented ownership and had acted with fraudulent intention, dishonest inducement, and misrepresentation, all of which had taken place in Delhi, thereby conferring jurisdiction upon the courts at Delhi as well as the Delhi Police to investigate the case. It is also contended that the learned Magistrate had incorrectly observed that the complainant did not reside within the territorial jurisdiction of the Court, whereas the complaint itself mentioned the complainant's Delhi address, supported by his voter identification card dated 03.10.2005, which reflected his residence at Delhi. It is



urged that the learned Sessions Court also committed an error in upholding the order of the learned Magistrate on the ground of jurisdiction. Although the learned Sessions Court observed that the learned Magistrate ought to have advised the complainant to file the complaint before the appropriate investigating agency, no such direction was issued in the impugned order. The learned counsel further argues that there is no prescribed limitation period for filing a petition under Article 227 of the Constitution read with Section 482 of Cr.P.C., and therefore, the present petition is maintainable. It is submitted that the petitioner had earlier filed Crl.M.C. 6017/2022 before this Court, which was dismissed as withdrawn with liberty as sought, *vide* order dated 16.11.2022. It is further pointed out that, in response to an RTI query filed by the petitioner, it was informed that Sector-11, Rohini, had been merged with P.S. Shahbad Dairy w.e.f. 01.01.2019, which meant that the said area had been under the jurisdiction of P.S. Prashant Vihar on the date of passing of the impugned order dated 10.12.2018. Therefore, on the relevant date, the learned Magistrate did have territorial jurisdiction to entertain and decide the complaint. On the aforesaid grounds, it is prayed that the impugned orders, whereby the application under Section 156(3) of Cr.P.C., and the complaint under Section 200 Cr.P.C. were dismissed, be set aside.

6. The learned APP for the State, on the other hand, argues that the impugned orders suffer from no illegality or infirmity and have been passed after due consideration of the material on record. It is



argued that the property in question is situated at Bhakrakot, Tehsil Sult, District Almora, Uttarakhand, and the alleged execution or non-execution of the sale deed, as well as the showing of a bogus sale deed, had taken place within that jurisdiction; thus, the substantial cause of action arose outside Delhi. The mere fact that part payment was allegedly made in Delhi or that the petitioner resided there does not confer territorial jurisdiction upon Delhi courts. It is further submitted that the merger of Sector-11, Rohini, with P.S. Shahbad Dairy w.e.f. 01.01.2019 is irrelevant, as jurisdiction is determined by the place of commission of the offence, not subsequent administrative changes. Supporting the findings of both the learned Magistrate and the learned ASJ, it is prayed that the petition, being devoid of merit, be dismissed.

7. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

8. The operative portions of the impugned order dated 22.07.2022, passed by the learned Sessions Court are reproduced hereinbelow:

“...8. Having given consideration to the facts of the present case and giving consideration to the submissions made by ld. counsels and on perusal of the law, I am discussing the facts of the case.

9. Herein in the present case, it is an admitted position that the cause of action arose at the place i.e. H.No. F-1/65, Sector- 11, Rohini, Delhi and that cause of action penains to the land situated in Uuarakhand. It is clear that none of the cause of action was occurred within the jurisdiction of PS - Prashant vihar. The cheques allegedly issued by the



revisionist/complainant to respondents were also not issued of any bank situated within the local jurisdiction of PS - Prashant Vihar. The Hon'ble high Court in cases titled as (1) Ramesh Awasthi Vs. State of NCT of Delhi & Anr in CRL. M.C. 666/2017 & Crl. M.A. 2837117 (stay), (2) Gautam Sarkar Vs. Stte and Anr. CRL. M.C. 667/17 & Crl. M.A 2839/17 (stay) & (3) Manoj Shanna Manu Vs. State of NCT of Delhi & Anr. CRL.M.C. 668/2017 & Crl. M.A. 2841/2017 (stay), after analyzing the law on 156(3) Cr.P.C., has categorically observed that a Magistrate cannot direct the SHO to get file the FIR beyond its territorial jurisdiction. The situation may be different under provision of u/s. 154 Cr.P.C. Under Section 154 Cr.P.C., FIR can be filed with any police station qua cognizable offence. And if subsequently the SHO concerned found that he has not territorial jurisdiction then said FIR can be transferred to the concerned police station. So, I am of the view that Id. Trial Court is not having territorial jurisdiction to give directions to the SHO for registration of FIR u/s. 156(3) Cr.P.C. Id. Trial court has rightly dismissed the application u/s. 156(3) Cr.P.C.

10. So far as, the next plea of the Id. counsel for the revisionist/ complainant that Id. trial Court could not have dismissed the complaint u/s. 200 Cr.P.C. straightway, is concerned. The Hon 'hie Supreme Court of India in case titled as Trisuns Chemical Indusdtry Vs. Rajesh Agarwal and others AIR 1999 Supreme Court 3499 has observed that, "It is an erroneous view that the Magistrate taking cognizance of an offence must necessarily have territorial jurisdiction to try the case as well". But the Hon'ble Supreme Court of India in that case has also observed that, "Jurisdictional aspect becomes relevant when the question of inquiry or trial arises". The Court is having power to take cognizance of an offence on the complaint constituting commission of offence is laid down under Section 190 (I) (a) of the Cr.P.C. After talcing cognizance the Mgistrate has to proceed under Section 200 of the Cr.P.C. U/s. 200 Cr.P.C. the Magistrate taking cognizance have co examine the complainant on oath or any witness in presence and thereafter, to proceed further u/s. 20 I or 202 or 204 of Cr.P.C.

11. But the question arises once the Magistrate take cognizance and proceeded further u/s.200 Cr.P.C. and



chose to examine the witnesses. Than his proceedings falls within che definition of inquiry. The Hon'ble Supreme Court in Trisuns Chemical Industry's case (Supra) has categorically observed that the issue of territorial jurisdiction became relevant at that stage. Once a Court is not having territorial jurisdiction and it takes cognizance in that circumstances evidence has to be summoned from the out of his territorial jurisdiction i.e. jurisdiction where the actual cause of action was occurred. This will not be advisable in the given facts and circumstances of the present case. The parties cannot be permitted to choose a forum of his own choice. Herein the present case, cause of action occurred in the adjoining jurisdiction of PS - Prashant Vhar. As Sector-11, Rohini, Delhi does not fall within the territorial jurisdiction of PS - Prashant Vihar, Delhi. But, the police station, where past cause of action arose situate as adjoining police station of PSPrashant Vihar, Delhi. And, the Id. Trial Court is also not having territorial jurisdiction over the PS having territorial jurisdiction of Sector-11, Rohini, Delhi. But the revisionist has filed the complaint with the police station Prashant Vihar, Delhi instead of filing the complaint with the PS having territorial jurisdiction over Sector-11, Delhi. Even , thereafter, the revisionist has filed the application u/s. 156(3) Cr.PC. with complaint u/s. 200 Cr.P.C. before the Ld. Trial Court having no territorial jurisdiction over the area of Sector- I I, Rohini, Delhi. I would also like to mention here the Metropolitan Magistrate who is having territorial jurisdiction of the area of Sector- I I, Rohini, Delhi also used to sit in Rohini Court Complex, Delhi itself. Even then revisionist has. not filed petition before that Magistrate. The revisionist cannot be pennined to chose the forum he liked in the given facts of present case.

12. Accordingly, I am of the view that Id. Trial Court has rightly held that it has no jurisdiction over the subject matter considering the overall facts and circumstances of the case. But instead of dismissing the complaint filed u/s. 200 Cr.P.C. the Id. Trial Coun must have advised the revisionist/ complainant to file the complaint with the investigating agency having territorial jurisdiction over the area where the cause of action arose or advise the complainant to file the application u/s. 156(3) Cr.PC alongwith complaint u/s. 200 Cr.PC. before the Magistrate



having territorial jurisdiction over the area of Sector I I, Rohini, Delhi. So, The revisionist/complainant would be at liberty to pursue the remedies before the Court or before the investigating agency to the competent territorial jurisdiction if so advised.

13. In totality, I found no illegality, impropriety or irregularity in the impugned order.

14. In view of the above discussion the revision petition is found to be devoid of merits, hence dismissed...”

9. The operative portions of the impugned order dated 10.12.2018, passed by the learned Metropolitan Magistrate-04, North District, Rohini Courts, Delhi, are reproduced hereinbelow for ready reference:

“By this order I proposed to disposed of an application U/S 156(3) Cr.P.C. have been heard offense wherein the complainant has prayed for issuance of direction to concern SHO/DCP for registration of FIR and to investigate the matter U/s 156 (3) Cr.P.C. I have heard the argument. Record perused Report filed by the IO perused

The allegation in the complaint clearly shows that the evidence is within the control of the complainant. No assistance of investigation agency is required and the facts and circumstances of the case as well as identity of the accused persons are with the knowledge of the complainant.

Perusal of complainant revealed that nighters the complainant resided with the territorial of the court nor the cause of action is occurred with the jurisdiction of this court. It is also reveals that the property in question is situated in Uttarakhand. There is no ground for directing the police to investigate the matter at this stage. The court is of the considered opinion that no police investigation is necessary to unearth the truth. In these circumstances the preset cou11 has no jurisdiction to decided the complaint of the complainant as well. Hence, the court is contains to not dismissed the application U/s 156 (3) Cr.P.C. but also declined to take cognizance on the application u/s 200



2025:DHC:6743



Cr.P.C. coupled with the application u/s 156 (3) Cr.P.C. accordingly, file be consigned to record room.”

10. The grievance of the petitioner in the present petition is that the learned Magistrate had entertained and proceeded with the petition under Section 156(3) of Cr.P.C. as well as the accompanying complaint under Section 200 of Cr.P.C. for a period of about two and a half years before ultimately arriving at the conclusion that the Court lacked territorial jurisdiction over the area where the alleged offence had taken place. According to the petitioner, this belated finding resulted in avoidable wastage of valuable time, both for the complainant and for the Court, as the matter could have been placed before the competent forum at a much earlier stage. It is further contended that the learned Sessions Court, while upholding the order of the learned Magistrate, had merely observed that the Magistrate “must have advised” the complainant to file the case before a court of competent jurisdiction. The petitioner submits that such a casual observation could not substitute the statutory duty cast upon the Magistrate under Section 201 of Cr.P.C., which mandates that, in the event of a lack of jurisdiction, the complaint should be returned for presentation to the proper court. The petitioner contends that failure to adopt this course has caused prejudice to him by depriving him of the opportunity to have his complaint promptly entertained by the court having territorial jurisdiction, thereby delaying the investigation and redressal of his grievance.



11. In the aforesaid background, this Court notes that Section 200 of the Cr.P.C., is relevant for the purposes of the present case. The same is reproduced below:

“201. Procedure by Magistrate not competent to take cognizance of the case.—If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall, -

(a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;

(b) if the complaint is not in writing, direct complainant to the proper Court.”

12. This Court is in agreement with the submission of the learned counsel for the petitioner that once the learned Magistrate had come to the conclusion that it lacked territorial jurisdiction over the area where the complaint had been filed, the proper course of action was not to dismiss the complaint, but to return it for presentation before the court of competent jurisdiction, with an appropriate observation safeguarding the petitioner from any adverse consequences on the ground of limitation.

13. In the present case, the complaint and the application under Section 156(3) of Cr.P.C. filed by the petitioner were not dismissed on merits; rather, the dismissal was solely on the ground of territorial jurisdiction, and the learned Sessions Court also observed that the concerned Police Station did not fall within the territorial jurisdiction of the learned Magistrate, whereas the concerned Police Station, which had jurisdiction over the matter, was also situated within the



Rohini Court Complex itself. In such circumstances, the right course of action was to return the complaint for re-presentation before the competent court, rather than to reject it outright.

14. Although the learned Sessions Court, while upholding the order of the learned Magistrate, granted liberty to the petitioner to approach the court of competent jurisdiction, this liberty was coupled with the practical difficulty of facing a limitation objection, which has led the petitioner to approach this Court.

15. Considering the overall facts and circumstances of the case, this Court is of the view that the complaint and application seeking registration of FIR should now be presented before the concerned SHO and/or the competent court of jurisdiction. The said court shall consider the matter afresh in accordance with law, uninfluenced by any observations made in the impugned orders. The period during which the complaint remained pending before the court lacking territorial jurisdiction shall stand excluded for the purposes of limitation, so as to ensure that the petitioner is not prejudiced on that account.

16. It is clarified that this Court has not dealt with the merit of the case and the application and the petition filed by the petitioner herein will be decided on merit afresh by the competent court of jurisdiction.

17. The petitioner will ensure that he takes necessary steps in this regard within a period of two weeks from date.



2025:DHC:6743



18. In view of the above, the present petition stands disposed of.
19. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
AUGUST 12, 2025/zp