

Sushilkumar Deorah Vs. the State

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Court : Delhi

Decided On : Feb-01-2006

Reported in : 2006CriLJ1474; 127(2006)DLT254; 2006(87)DRJ184; (2006)143PLR17

Judge : R.C. Jain, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 182 and 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 406, 415, 420, 494 and 495; [Constitution of India](#) - Articles 226 and 227

Appeal No. : W.P. (Crl) 153/1990

Appellant : Sushilkumar Deorah

Respondent : The State

Advocate for Def. : Mukta Gupta and ; Rajdipa Behura, Advs. and ; SI Mahender M

Advocate for Pet/Ap. : V. Krishnamurthy and; S. Aravindh, Advs

Judgement :

R.C. Jain, J.

1. Through this petition under Articles 226 and 227 of the [Constitution of India](#) read with Section 482 Cr.P.C. the petitioner seeks quashing of FIR 138/1989 under Sections 420/406 IPC registered at P.S.Rajinder Nagar, New Delhi and also for quashing the investigation taken in that case.

2. The facts which give rise to the present petition are that a certain Mr.Gurmukh Singh made a complaint to the DCP (Crime and Railways), Police Headquarters on 29.7.1989 stating therein that he is a native of Delhi, having gone to Bangkok and having business there since 1953. In January and March, 1987 when he happened to be in Delhi, the petitioner-Mr.Sushil Kumar Deorah, a resident of Friends Colony, New Delhi, who was known to him before, met him at Delhi and induced him to invest an amount of US Dollars 1,00,000.00 in a certain factory which the petitioner had floated under the name and style of Autopilots India Limited at Tarapore, having its registered office at 77, Aplants, 7th Floor, Nariman Point, Bombay and assured that it was a flourishing business and in a couple of years the company will dominate in India and they will open branches in Thailand; that the money of the complainant shall be doubled in one year's time; and the complainant and his son will be made directors; and even the North area dealership will be granted to them. Pursuant to that representations, afterwards a certain Mr.Kanti Lal V.Vakharaia, another director of the said company met the complainant and made him to part an amount of Rs.13.00 lacs, which was ultimately transferred to the company of the petitioner at Mumbai. However, subsequently the complainant discovered that he has been defrauded and cheated in as much as the representations made by the petitioner were not correct and were rather false and misleading and even the money which the complainant was made to part with was not returned. On the basis of the said complaint, the above FIR was registered and investigation taken up.

3. The petitioner seeks to assail the said FIR and further investigation primarily on the grounds; firstly, that no offence of cheating or mis-appropriation as punishable under Sections 420/406 IPC is made out even if the averments made in the complaint are taken on its face value and, secondly, that Delhi Police has no jurisdiction to entertain the complaint and register the case and investigate the matter in as much as the petitioner had never come to Delhi and had no

interaction with the complainant at Delhi and he had no residence in Delhi during the relevant period and that mis-representations, if any, which can be said to have been made was by Mr.Kanti Lal V.Vakharia, who visited Hongkong in February, 1987 and met the complainant and allegedly persuaded him to part with the money which was deposited in the accounts of the company at Mumbai. In this regard, learned counsel has pointed out that the company was, in fact, running fine but due to certain statutory changes brought about by the Government, the company suffered huge losses and, therefore, it could not pay any dividends and the value of its shares had dipped drastically and the complainant have invested the money by buying the shares with open eyes having regard to the risk involved in the matter. It is also urged that no criminal offence is made out against the petitioner, and even if it can be said that any such offence was committed, it can only be inquired into and tried at Mumbai and not in Delhi. In this connection he has heavily relied on the provisions of Section 182 Cr.P.C. which is to be following effect:

182. Offences committed by letters, etc.____ (1) Any offence which includes cheating may, if the deception is practiced by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

(2) Any offence punishable under Section 495 or Section 494 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage (, or the wife by first marriage has taken up permanent residence after the commission of offence).

4. According to the learned counsel for the petitioner, assuming that an offence of cheating and misappropriate was committed, having regard to the above provision, it can only be investigated and tried within the local jurisdiction of Mumbai courts because the amount was received from Hongkong and deposited in the accounts

of the petitioner's company at Mumbai. On the other hand, learned standing counsel for the State has pointed out that the said Section is not attracted in the case in hand in as much as there is no allegation that the offence was committed either through correspondence or by any telecommunication message and because there is clear allegation in the complaint that the complainant and the petitioner had the direct interaction when both of them were in Delhi during the period January to March, 1987. There appears to be force in this contention because Section 182 Cr.P.C. makes a special provision for specifying the place of commission of offences when the offences are committed by a particular mode, i.e. by means of letters and telecommunications which is not the situation in the present case. thereforee, this Court has no hesitation in holding that on the basis of the averments and allegations made in the complaint, the Delhi Police has the necessary jurisdiction to entertain, register and investigate into the complaint made by the complainant and it cannot be said that the Mumbai Police will have the jurisdiction because ultimately the money went in the account of the petitioner's company based at Mumbai.

5. So far as the question as to whether, in fact, there was any mis-representation or not by the petitioner or the other director and whether it amounts to deception within the meaning of Section 415 IPC, can be considered taking into account all the facts and circumstances and the evidence which might be collected by the investigating agency during the course of investigation.

6. Having considered the matter in its entirety, this Court is of the opinion that this petition has no merits and deserves to be dismissed. Ordered accordingly. Accordingly, the interim order passed on 17.5.1990 on CM 115/1990 is hereby vacated. The investigating agency shall be free to proceed with the investigation. Since the complaint pertains to the year 1989 and the petition was filed as far back as in the year 1990 and remained pending since then, it is directed that henceforth the investigation shall be resumed and conducted expeditiously and effort be made to complete the same, preferably within a period of six months from the date of this order. With these observations, the petition and all other pending applications stand disposed of.

