
(2006) 04 AHC CK 0236

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No's. 11882, 11883, 12320 and 12471 of 2005

Dr. Rajendra B. Lal

APPELLANT

Vs

The State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 26-04-2006

Acts Referred:

Constitution of India, 1950 — Article 226(2)
Criminal Procedure Code, 1973 (CrPC) — Section 160, 160(1)
Penal Code, 1860 (IPC) — Section 114, 120B, 406, 420, 465

Citation : (2006) 04 AHC CK 0236

Hon'ble Judges : R.N. Misra, J; Amitava Lala, J

Bench : Division Bench

Advocate : Gopal Swaroop Chaturvedi, Raj Laxmi Sinha and Sapna Singh, for the Appellant; A.N. Mulla and A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Amitava Lala, J.—All the writ petitions are more or less factually identical. Reliefs are in the nature of not to arrest the petitioner/s in connection with the first information report dated 25th July, 2005 and summons in Case Crime No. 30 of 2005, State of Gujarat v. Girish Sanghvi, under Sections 120B, 406, 420, 465, 467, 468, 471(A) and 114 of the Indian Penal Code lodged in Police Station Haweli, District Ahmedabad and other incidental reliefs in connection thereto.

2. Admittedly the petitioner/s is/are neither named in the first information report (hereinafter called as "F.I.R.") nor in any of the subsequent documents thereto which gives the primary cause of action for making such writ petition/s. The sole contention of the petitioner/s is that a notice u/s 160 of Code of Criminal Procedure (hereinafter in short called as "Cr.P.C.") was served upon him/them within the State of Uttar Pradesh, therefore, they are entitled to invoke the jurisdiction of this High Court for the purpose of appropriate relief/s.

3. Factually, there is no doubt that the entire cause of action arose within the

State of Gujarat not within the State of Uttar Pradesh. F.I.R. says that the offence is under Sections 406, 420, 465, 467, 468, 471, 120B, 114 of the Indian Penal Code and u/s 5 of the State Universities Act and Section 5 of Gujarat University Act, 1940 and u/s 31 of Gujarat Higher Secondary Education Act, 1972, inasmuch as that the present accused have, by constituting a conspiracy, in collusion with and in connivance of each other, set up one dummy, illegal and bogus institution namely Gujarat Vidhya Bharti in the State of Gujarat as well in the city of Ahmedabad and in order to fascinate the parents and students, have published alluring and deceiving advertisement in the various newspapers and thereby attaining the trust of the students and the parents and by collecting monies and issuing false and bogus certificates and degree of variety of universities, have breached the provisions, rules and regulations of the State University and thereby committed offence.

4. When we go into details of the F.I.R., we find that apart from the names of the various universities of the country including Allahabad Agriculture Institute Deemed University and Gurukul Vishwavidyalaya, Vrindavan, Uttar Pradesh, nothing is seen to be the facts which can create a cause of action within the jurisdiction of the Court. The provisions of Section 160 Cr.P.C. is quoted hereunder:

160. Police officer's power to require attendance of witnesses.--(1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under Sub-section (1) at any place other than his residence.

5. From the plain reading of such section it appears to us that the cardinal principle of the section is requirement of attendance of the person within the jurisdiction mentioned therein. In the present case requirement of attendance arose within the jurisdiction of the appropriate police station in the State of Gujarat, When such requirement arose within the police station therein, any police officer can issue appropriate notice from there requiring attendance of any person even if he is staying outside the jurisdiction. Such section does not say to whom the notice of interrogation will be served, he has to be resident of such jurisdiction. Therefore, receiving of notice outside the jurisdiction of the appropriate police authority can not give any cause of action for not attending there as per the requirement. If this Court holds that a police authority can not

issue any notice to any person, who does not stay within his jurisdiction or within the adjoining jurisdiction of the station, it will lead to an absurd proposition of law. No police officer can be able to investigate the crime freely. On the other hand, it is fundamental duty of a citizen to co-operate with the police in respect of an inquiry and investigation to bring out the truth. The petitioner/s contended that as because one other person was called for interrogation and then arrested, he/they are apprehensive about such arrest. According to us, such apprehension can not give the jurisdiction of this Court to interfere with the offence committed outside. Moreover, happening to some one in other case can not be the basis of the jurisdiction in the present case.

6. All the points were kept open from the beginning. At the time of obtaining the interim order, in an earlier occasion, the petitioner/s cited a judgment reported in *Navinchandra N. Majithia Vs. State of Maharashtra and Others*, to establish that territorial jurisdiction of the High Court, even in the case of criminal cases, will be applicable by virtue of Article 226(2) of the Constitution of India irrespective of seat of the Government. According to us, such proposition is applicable when part of the cause of action will arise within the jurisdiction. But in this case no part of the cause of action arose within the State of Uttar Pradesh. The police authorities of Uttar Pradesh have nothing to do in this case. Mere acceptance of notice within the State of Uttar Pradesh is nothing but knowledge of the petitioner/s in respect of the action taken by the police in that State. The notice itself can not form part of the cause of action unless backed by part of the cause of action arose within the jurisdiction.

7. Therefore, neither of the arguments are convincing in nature.

8. Mr. Gopal Swaroop Chaturvedi, learned Senior Counsel appearing for the petitioner/s, obtained time from the Court during the course of hearing as a last resort to cite an unreported judgment of this Court delivered on 16th September, 2005 in Criminal Misc. Writ Petition No. 9280 of 2005 (*Dr. Rajendra B. Lai and Anr. v. The State of Uttar Pradesh and Ors.*), the self same petitioner herein. The decision was ultimately cited. According to us, such judgment has no manner of application in the present case. In that case cause of action of such writ petition arose at Naini, Allahabad, Uttar Pradesh. Having so, the writ court interfered with the matter in merit. The Division Bench ultimately held that non-response of U.G.C. or clarification regarding irregularities of a University, if any, do not constitute any offence against the persons, who are running such institute. We are not entertaining the merit herein. Therefore, we have no occasion to accept or reject the proposition of such judgment. If the petitioner/s chooses to proceed with the matter before an appropriate jurisdiction of the Court, then alone he/they can take help of such judgment there for the necessary purpose.

9. Therefore, in totality we are of the view that the writ petition/s can not be sustained, Thus, the writ petition/s stand dismissed. Interim order, if any, stands vacated.

10. However, no order is passed as to costs.

11. All the aforesaid four writ petitions will be governed by this common judgment passed hereunder and office is directed to keep a copy of this judgment/ order in all the aforesaid writ petitions.