(2001) 12 DEL CK 0029

In the Delhi High Court

Case No : Criminal M. (M) 585 of 2001

Naveen Kumar Aditya APPELLANT

Vs

Escorts Finance Ltd. RESPONDENT

Date of Decision : 13-12-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 181(4), 482
Penal Code, 1860 (IPC) — Section 408, 420, 468, 471

Citation : (2002) 95 DLT 822 : (2002) 61 DRJ 391 : (2003) 3 RCR(Criminal) 337

Hon'ble Judges : Kripa Shankar Gupta, J

Bench : Single Bench

Advocate : Yashpal Sharma, for the Appellant; Jitender Sarin, for the Respondent

Final Decision : Dismissed

Judgement

K. S.Gupta, J.—In this petition u/s 482 Cr.P.C. the petitioner seeks quashment of complaint and proceedings taken out there under against him.

2. Complaint was filed by Escorts Finance Ltd, respondent on 12th October 1999 against the petitioner-accused, interalia, alleging that it is a Non Banking Financial Institution and engaged in the field of hire- purchase / leasing of plant and machinery, fixed deposits, inter-corporate deposits and bill discounting facility etc. The petitioner joined as an Assistant on 24th May 1995 at New Delhi and he continue in the employment of respondent till 1st December 1998 on which date he was relieved from the services of company. Then he was working as Executive and posted in Hyderabad. In the course of employment petitioner was authorised to receive payments from the customers and issue receipts to them on behalf of company. Amounts received by the petitioner either through cheque or cash on behalf of company were to be deposited in the Company''s account with Bombay Mercantile Co-operative Bank Ltd, Hyderabad branch. It is further alleged that petitioner received Rs.12,000- vide receipt dated 15th September 1998 from Chandra Business Corporation, Rs.48,800/- vide receipt dated 14th September 1998 from Sree Sai Ram Enterprises and Rs.25,450/- vide

receipt dated 14th September 1998 from Goshamal Service Station, totalling Rs.86,250/- on behalf of company. Out of this amount he deposited only s.6,250/- in the account of company with the said bank and balance amount of Rs.80,000/- was dishonestly misappropriated by him. Again on 13th October 1998 the petitioner received in cash amount of Rs. 43,000/- from K.Venkat Reddy. Out of this amount he deposited Rs. 3,000/- and sum of Rs. 40,000/- was dishonestly misappropriated by him. It is also alleged that all records of the company are maintained at the head office at New Delhi. As per procedure, the counterfoils, statements Along with transaction analysis are sent to head office at New Delhi. The petitioner analysis are sent to head office at New Delhi. The petitioner sent the relevant papers to the head office at New Delhi with fictitious entries and also forged statement of accounts issued by the bank. misappropriation of total amount of Rs. 1,20,000/- by the petitioner was detected in the month of May 1999 at the time of audit of company''s accounts by Sanjeev Sahansarwal. It was prayed that petitioner be prosecuted and punished for the offences committed by him in accordance with law.

3. Sanjeev Sahansarwal, Manager of respondent company as CW-3 has substantiated the allegations made in complaint.

4. By the order dated 24th October 2000 the petitioner was summoned to face trial fro the offences under Sections 408, 420, 468 and 471 IPC by the Metropolitan Magistrate seized of the complaint.

5. Petitioner has sought quashment of the complaint and proceedings taken out there under mainly on two grounds - (i) courts at Delhi have o territorial jurisdiction in the matter as no part of offence was committed within the jurisdiction of Delhi and (ii) allegations made in the complaint, even if read as a whole, do not disclose commission of offences for which petitioner has been summoned. To meet the objection regarding Delhi courts having no territorial jurisdiction, Sh. Jitendra Saini for respondent company has invited my attention to Subsection (4) of Section 181 Cr.P.C. According to him, all records of company were/are maintained that head office in New Delhi and as per procedure, the counterfoils, statements Along with transaction analysis were to be sent from Hyderabad to the head office of company by the petitioner as also pleaded in Para No.12 of complaint which averment is supported by the deposition of Sanjeev Sahansarwal, CW-3 examined by way of pre-summoning evidence. Reliance was placed on the decisions in Trisuns Chemical Industry Vs. Rajesh Agarwal and others, K. Ramakrishna Reddy and Others Vs. V.K. Padmavathi and Another, Jahangir Joiya Vs. State of Rajasthan and Another, and Rajaram Pattnaik Vs. Indian Metal and Ferro Alloys Limited, In Jahangir Joiya and Rajaram Pattnaik''s cases (supra) it was held that in terms of Section 181(4) Cr.P.C. the accused can be prosecuted in a court within whose jurisdiction (a) the offence was committed; or (ii) any part of the property was received or retained; or (iii) any property or part of the property was required to be returned or accounted for by the accused. Since the petitioner was to account for the payments received to

be returned or accounted for by the accused. Since the petitioner was to account for the payments received by him at the head office of company at New Delhi as alleged in complaint the courts at Delhi have the territorial jurisdiction to try the petitioner for the offences allegedly committed by him. That apart, criminal proceedings cannot be quashed on the ground of lack of territorial jurisdiction by a Magistrate who has taken cognizance of the offence in exercise of inherent power u/s 482 Cr.P.C. as rightly held in K.Ramakrishna Reddy''s case (supra).

6. Ground (ii) above, deserves to be repelled being without any merit as the allegations made in complaint supported by the statement of CW-3 clearly disclose commission of cognizable offences by the petitioner.

7. Consequently, the petition is dismissed.

