
(2020) 01 RAJ CK 0404

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 5227 Of 2019

Pradeep Singh Chauhan And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 20-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 384, 406, 420, 467, 468, 471
Code Of Criminal Procedure, 1973 — Section 177, 438

Citation : (2020) 01 RAJ CK 0404

Hon'ble Judges : Sanjeev Prakash Sharma, J

Bench : Single Bench

Advocate : Dinesh Yadav, Ramesh Chaudhary, Vandana Sharma

Final Decision : Allowed

Judgement

1. This case came up on an application for vacating the interim order dated 21/08/2019 passed by this Court whereby proceedings in FIR

No.395/2018, registered at Police Station Vaishali Nagar, Jaipur were stayed.

2. The contention of the petitioners is that the FIR, which was registered against them under Section 420, 406, 467, 468, 471, 384 and 120B IPC, is in

relation to a dispute relating to terms of contract.

3. It is the case of the respondent-complainant that the petitioners have committed fraud and cheated him of his hard earned money.

4. The brief facts which have been mentioned by the complainant-respondent in the FIR are that he met petitioners who induced him for business and

promised to sell 200 Bighas of land at Village Sujan, Tehsil Shivpuri, District Shivpuri (Madhya Pradesh) and in lieu of the said inducement took away

an amount of Rs.1,66,62,855/- and the sale deed was also executed but physical possession of the land and mines was not given. The JBC was also

not handed over to the complainant and the complainant was threatened of dire consequences including allegations to be levelled against him of rape

of tribal woman. It was further stated that the accused-Lokendra Singh Rathore was known to the complainant and the accused-Pradeep Singh

Chauhan was brother-in-law of Lokendra Singh Rathore who induced to the complainant and by hatching a criminal conspiracy taken away the huge amount from the complainant.

5. Learned counsel appearing for the petitioners submits that the said FIR was based on false facts while it was a case where an agreement to sale

between the parties dated 31/03/2013. The sale was subsequently cancelled by the complainant and the accused-petitioners on 20/01/2015 and the

FIR was lodged in the year 2018 at Jaipur where there was no cause of action. It is submitted that the agreement for sale was executed with regard

to the land at Shivpuri (MP) and the stamp papers were also purchased from MP. The said agreement dated 31/03/2013 was subsequently cancelled

by agreement for cancellation executed between the complainant and the petitioners by executing an agreement on 20/01/2015 at Shivpuri (MP). In

the said cancellation agreement, which has also been placed on record, it was specifically mentioned that the earlier agreement dated 31/03/2013 has

been cancelled between the parties by mutual consent.

6. Learned counsel submits that the entire case was registered at Jaipur merely because of several relatives of the complainant being members of

police although it did not have the territorial jurisdiction to even register the case and the FIR be therefore quashed. Learned counsel relied on the

judgment rendered by the Apex Court in Y. Abraham Ajith & ors. Vs. Inspector of Police, Chennai & anr.: (2004) 8 SCC 100 to submit that in terms

of Section 177 Cr.P.C., reference to the local jurisdiction where the offence is committed is mentioned, the Supreme Court has stated that the cause

of action would also be required to be seen with regard to the criminal cases for the purpose of territorial jurisdiction.

7. Per-contra, learned counsel for the complainant submitted that the first agreement entered into between the parties was signed at Jaipur and

therefore, part of the cause of action did arise at Jaipur. She further submitted that the petitioners have played a fraud and obtained a huge amount

from the complainant. While granting bail by this Court under Section 438

Cr.P.C., the petitioners were asked to join investigation but they have also not joined investigation. Learned counsel for the complainant submitted that so far as the complainant is concerned, he is residing in Jaipur and had given money to the petitioners from Jaipur. Further, after cancellation of the agreement also, the complainant was required to be given other pieces of land for which the petitioners had promised but the same were also not provided.

8. After hearing submissions of learned counsel for the parties, this Court has also considered the material available on record as well as the case law as cited at bar.

9. In *Y. Abraham Ajith & ors. Vs. Inspector of Police, Chennai & anr.* (supra), the Supreme Court has held as under:-

12. The crucial question is whether any part of the cause of action arose within the jurisdiction of the concerned Court. In terms of Section 177 of the Code it is the place where the offence was committed. In essence it is the cause of action for initiation of the proceedings against the accused.

13. While in civil cases, normally the expression ""cause of action"" is used, in criminal cases as stated in Section 177 of the Code, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression do not really make the position different. The expression ""cause of action"" is therefore not a stranger to criminal cases.

14. It is settled law that cause of action consists of bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise.

15. The expression ""cause of action"" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the right itself. Compendiously the expression means

every fact, which it would be necessary for the complainant to prove, if traversed, in order to support his right or grievance to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every

piece of evidence, which is necessary to prove such fact, comprises in cause of action".

16. The expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts.

17. The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. (Black's Law Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In "Words and Phrases" (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

18. In Halsbury Laws of England (Fourth Edition) it has been stated as follows: Cause of action" has been defined as meaning, simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. "Cause of action" has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action".

19. When the aforesaid legal principles are applied, to the factual scenario disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, the concerned magistrate had no jurisdiction to deal with the matter. The proceedings are quashed. The complaint be returned to respondent No. 2 who, if she so chooses, may file the same in the appropriate Court to be

dealt with in accordance with law. The appeal is accordingly allowed.

10. Section 177 Cr.P.C. reads as under:-

177. Ordinary place of inquiry and trial :- Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

11. Thus, the word 'ordinarily' has been used. Such word would, therefore, be understood to mean that in normal course the case is required to be tried by the Court within whose jurisdiction the offence is committed.

12. Applying the aforesaid principle and judgment to the facts of this case, this Court notices that so far as the original agreement for sale of property is concerned, the stamp papers were purchased from MP Shivpuri, however, same were entered at Jaipur and were attested by notary at Jaipur on 31/03/2013.

13. However, it lost its significance and sanctity after the same was cancelled by a cancellation agreement entered between the parties on 20/01/2015.

The cancellation agreement has been executed at Shivpuri (MP). It is also noted that the stamp papers were also purchased from Shivpuri (MP) and the attestation by witnesses is also from Shivpuri (MP). It is the agreement of cancellation which has become the bone of contention amongst the parties. The FIR registered against the petitioner is at Jaipur based on the first agreement but there is no mention about the cancellation of agreement executed at Shivpuri (MP). The property for the purchase of which the agreement was entered is situated at Shivpuri (MP)) and the grievance of the complainant is of not handing over possession of the said properties by the petitioners. Subsequent cancellation agreement and some sale Deeds executed for part of land have been made in Shivpuri (MP).

14. Keeping in view the aforesaid, this Court is satisfied that the cause of action as discussed at length (supra) lies at Shivpuri (MP) alone and no part of cause of action exists at Jaipur.

15. Therefore, the criminal proceedings initiated by the Police and the concerned court at Jaipur pursuant to the FIR impugned herein are held to be without territorial jurisdiction and are quashed and set aside.

16. The complaint filed by the petitioner would be treated as returned to respondent no.2 who, if so chooses, may file the same in appropriate Court

having territorial jurisdiction to be dealt with in accordance with law.

17. The instant Criminal Misc. Petition is accordingly allowed.