

(1993) 10 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 49 of 1993

Vijender Kumar Jain

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-10-1993

Acts Referred:

Citation : (1993) 3 AICLR 909 : (1993) 2 CurLJ 846 : (1994) 1 RCR(Criminal) 194

Hon'ble Judges : H.S.Brar, J

Advocate : D. D. Sharma, Advocates for appearing Parties

Judgement

H. S. Brar, J.

1. In this petition under Articles 226/227 of the Constitution of India, petitioner Vijender Kumar Jain has sought quashing of his detention order,

dated December 17, 1991, passed under section 3(1) of Conservation of Foreign Exchange and Prevention of, Smuggling Activities Act, 1974 (as

amended), which is annexured as Annexure P1 to the petition. It has been challenged on various grounds. However a preliminary objection has

been raised by the respondent Union of India that this Court has no jurisdiction to entertain the petition, as according to the respondent no cause of

action has arisen within the territorial jurisdiction of this Court, on the basis of which the detention JUDGMENT Annexure P1, has been passed.

2. In order to invoke the jurisdiction of this court, it has been stated in the petition that the petitioner resides at Jalandhar. In proof of his residence,

an affidavit, Annexure P2, and Rent Deed between Pawan Kumar landlord of House No NK241, Charnjitpura, Jalandhar and the petitioner,

dated November 1, 1991 have been filed. It has also been stated in the petition that the police had raided the residence of the petitioner thrice to

arrest him.

3. Of course by the petitioner in his petition have been denied by way of an affidavit filed by the Joint Secretary to the Government of India

Ministry of Finance, Department of Revenue, New Delhi, on behalf of the respondent Union of India. It has been stated in the affidavit that the

petitioner is a permanent resident of Delhi. He was arrested by the Customs Authority at Delhi and he was granted bail by the learned Sessions

Judge, Delhi in that case. The petitioner gave his address to the Customs Authority at the time of investigation as resident of 1294, Gali Paharwali

Dharampura, Chandani Chowk, Delhi. He never disclosed his other address of Jalandhar. It is then stated in the affidavit that in the bail application

filed before the learned Sessions Judge, Delhi he mentioned his above mentioned address of Delhi, only. It is then stated therein that from a bare

perusal of Annexures P4 to P7 filed by the petitioner himself with this petition, it is clear that he is resident of Delhi. Vide these Annexures, the

petitioner had applied to the District Officer of New Delhi for getting certified copies of some orders. It is finally urged by the learned counsel for

the Union of India that this petitioner is liable to be dismissed on the sole ground of want of jurisdiction of this Court.

4. After going through the record of the case, I am unable to reach a conclusion that even a part of cause of action arose within the territorial

jurisdiction of this Court. No part of prejudicial activity has been mentioned which should be taken to have arisen in Punjab, Haryana at

Chandigarh, that is, within the territorial jurisdiction of this Court. It is an admitted fact that the petitioner was arrested by the Customs Authority at

Delhi under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (as amended) and the petitioner gave his

address to the Customs Authority as resident of 1294, Gali Paharwali Dharampura, Chandani Chowk, Delhi. Not only that, the petitioner sought

bail from Delhi Court which is proved by his own evidence attached as Annexures P4 and P7 with his petition. Even if it is proved that he has

started residing at Jalandhar now, or that he is resident of Jalandhar, he cannot invoke the jurisdiction of this Court simply on the ground of

residence, *Manjit Singh Dhingra v. Union of India and others*, ILR (1987)2 Punjab and Haryana 61 and *Gurdeep Kaur v. The Union of India* and

others, 1990(2) Recent CR 20 can be referred to here with advantage. It has not been brought to my notice that even a part of cause of action a

rose in the territorial jurisdiction of this Court, on the basis of which the detention order has been passed. In my view thus, the preliminary

objection taken by the Union of India is sustained and this petition is dismissed, as this Court has no jurisdiction to entertain the same under

Articles 226/227 of the Constitution of India, for quashing the detention order, dated December 17, 1991, Annexure P1.