THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

S. B. : Hon'ble Shri Justice Rajendra Kumar Srivastava

M.Cr.C.No.48217/2020

Rishi Raja @ Birendra Kumar

Vs

The State of Madhya Pradesh & Another

Shri Yar Mohammad, learned counsel for the petitioner.

Shri Ravindra Singh Rajput, learned P.L. for the respondent No.1/State.

Shri S.K. Sharma, learned counsel for the respondent No.2.

O R D E R
(31.03.2021)

The instant petition under Section 482 of Cr.P.C. has been preferred by the petitioner for quashing the FIR of Crime No.72/2020 registered at Police-Station Kotwali, District-Katni for the offence punishable under Section 420 of IPC.

2. As per prosecution case, complainant/respondent No.2-Ankit Dubey has lodged the FIR against the petitioner stating therein that in the year 2007, on account of supplementary in class 12th examination, the complainant came into contact of petitioner through his friend. The petitioner filled up the open examination form of respondent No.1 taking Rs.6000/-. Thereafter, he informed the complainant to appear in the examination and had given admit card and time table. He conducted the examination in his office along with 10 to 15 students. After passing two months period, the petitioner had given mark-sheet and migration certificate of examination center Government Higher Secondary School Morena. Thereafter, the complainant also got the examination in the BBA course at Bhopal on the basis of such mark-sheet. In the year 2019, on account of death of father of complainant, the complainant has applied for compassionate appointment for the post of ASI and on verification process, it is revealed that the mark-sheet given by the petitioner is forged.

3. Learned counsel for the petitioner/accused submits that entire cause of action arose at Morena and therefore, the Police Station-Kotwali, District-Katni has no jurisdiction. The FIR may be lodged on the zero. Prosecution has no material to constitute the alleged offence. The petitioner has not responsible for the mistake of Board Office at Bhopal. The name of the petitioner has been added in the FIR with *mala-fide* intention. Therefore, he prays for quashing the FIR.

4. Learned counsel for the State opposes the submissions made by learned counsel for the petitioner submitting that *prima facie*, the offence is cognizable and investigation is going on in preliminary stage, therefore, FIR cannot be quashed, if any complaint is submitted in police station then police officer is bound to register the FIR. Therefore, proceeding cannot be quashed on the lack of territorial jurisdiction of Investigating Officer. Therefore, it is not a proper case in which the inherent jurisdiction can be invoked in this case.

5. Heard both the parties and perused the case diary.

6. The learned counsel for the petitioner has filed this petition mainly on the ground of territorial jurisdiction of Police Station-Kotwali, District-Katni.

7. The Hon'ble Apex Court has held that the police officer competent to investigate any cognizable offence and therefore, FIR cannot be quashed on the lack of territorial jurisdiction of police.

8. The judgment of Hon'ble Apex Court in the case of ***Satvinder Kaur Vs. State (Govt. of NCT of Delhi) and another*** reported in ***(1999) 8 SCC 728*** has held as under:-

> *8. In our view, the submission made by the learned counsel for the appellant requires to be accepted. The limited question is whether the High Court was justified in quashing the FIR on the ground that Delhi Police Station did not have territorial jurisdiction to investigate the offence. From the discussion made by the learned Judge, it appears that learned Judge has considered the provisions applicable for criminal trial. The High Court arrived at the conclusion by appreciating the allegations made by the parties that the SHO, Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction to entertain and investigate the FIR lodged by the appellant because the alleged dowry items were entrusted to the respondent at Patiala and that the alleged cause of action for the offence punishable under Section 498-A IPC arose at Patiala. In our view, the findings given by the High*

Court are, on the face of it, illegal and erroneous because:

> *(1) The SHO has statutory authority under Section 156 of the Criminal Procedure Code to investigate any cognizable case for which an FIR is lodged.*
>
> *(2) At the stage of investigation, there is no question of interference under Section 482 of the Criminal Procedure Code on the ground that the investigating officer has no territorial jurisdiction.*
>
> *(3) After investigation is over, if the investigating officer arrives at the conclusion that the cause of action for lodging the FIR has not arisen within his territorial jurisdiction, then he is required to submit a report accordingly under Section 170 of the Criminal Procedure Code and to forward the case to the Magistrate empowered to take cognizance of the offence.*

9. This would be clear from the following discussion. Section 156 of the Criminal Procedure Code empowers the police officer to investigate any cognizable offence.
It reads as under:

> *"156. Police officer's power to investigate cognizable case.—(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of such station would have power to enquire into or*

try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as abovementioned."

10. It is true that territorial jurisdiction also is prescribed under sub-section (1) to the extent that the officer can investigate any cognizable case which a court having jurisdiction over the local area within the limits of such police station would have power to enquire into or try under the provisions of Chapter XIII. However, sub-section (2) makes the position clear by providing that no proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered to investigate. After investigation is completed, the result of such investigation is required to be submitted as provided under Sections 168, 169 and 170. Section 170 specifically provides that if, upon an investigation, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit for trial. Further, if the investigating officer arrives at the

conclusion that the crime was not committed within the territorial jurisdiction of the police station, then FIR can be forwarded to the police station having jurisdiction over the area in which the crime is committed. But this would not mean that in a case which requires investigation, the police officer can refuse to record the FIR and/or investigate it.

11. Chapter XIII of the Code provides for "jurisdiction of the criminal courts in enquiries and trials". It is to be stated that under the said chapter there are various provisions which empower the court for enquiry or trial of a criminal case and that there is no absolute prohibition that the offence committed beyond the local territorial jurisdiction cannot be investigated, enquired or tried. This would be clear by referring to Sections 177 to 188. For our purpose, it would suffice to refer only to Sections 177 and 178 which are as under:

> *"177. Ordinary place of enquiry and trial.—Every offence shall ordinarily be enquired into and tried by a court within whose local jurisdiction it was committed.*
>
> *178. Place of enquiry or trial. —(a) When it is uncertain in which of several local areas an offence was committed, or*
>
> *(b) where an offence is committed partly in one local area and partly in another, or*
>
> *(c) where an offence is continuing one, and continues to be committed in more local areas than one, or*

(d) where it consists of several acts done in different local areas,

it may be enquired into or tried by a court having jurisdiction over any of such local areas."

12. A reading of the aforesaid sections would make it clear that Section 177 provides for "ordinary" place of enquiry or trial. Section 178, inter alia, provides for place of enquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it consisted of several acts done in different local areas, it could be enquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that the SHO does not have territorial jurisdiction to investigate the crime.

13. This Court in State of W.B. v. S.N. Basak [AIR 1963 SC 447 : (1963) 2 SCR 52] dealt with a similar contention wherein the High Court had held that the statutory powers of investigation given to the police under Chapter XIV were not available in respect of an offence triable under the West Bengal Criminal Law Amendment (Special Courts) Act, 1949 and hence the investigation was without jurisdiction. Reversing the said finding, it was held thus:

"The powers of investigation into cognizable offences are contained in Chapter XIV of the Code of Criminal Procedure. Section 154 which is in that chapter deals with information in cognizable offences and Section 156 with investigation into such offences and under

these sections the police has the statutory right to investigate into the circumstances of any alleged cognizable offence without authority from a Magistrate and this statutory power of the police to investigate cannot be interfered with by the exercise of power under Section 439 or under the inherent power of the court under Section 561-A of the Criminal Procedure Code. As to the powers of the judiciary in regard to statutory right of the police to investigate, the Privy Council in King Emperor v. Khwaja Nazir Ahmad [(1944) 71 IA 203, 212 : AIR 1945 PC 18] (IA at p. 212) observed as follows—

> *'The functions of the judiciary and the police are complementary, not overlapping and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course subject to the right of the court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the court's functions begin when a charge is preferred before it, and not until then. It has sometimes been thought that Section 561-A has given increased powers to the court which it did not possess before that section was enacted. But this is not so. The section gives no new powers, it only provides that those which the court already inherently possesses shall be preserved and is inserted, as their Lordships think, lest it should be considered that the only powers possessed by the court are those expressly conferred by the Criminal*

> *Procedure Code and that no inherent power had survived the passing of that Act.'*
>
> *With this interpretation, which has been put on the statutory duties and powers of the police and of the powers of the Court, we are in accord. The High Court was in error therefore in interfering with the powers of the police in investigating into the offence which was alleged in the information sent to the officer in charge of the police station."*

9. In another judgment of Hon'ble Supreme Court, in the case of ***State of A.P. Vs. Punati Ramulu and otheres*** reported in ***1994 Supp (1) SCC 590,*** it has been held as under:-

> *4. The case as put forward by the prosecution was that PW 1 went to Narasaraopet from the scene of the occurrence. He contacted PW 13 to draft the report addressed to the Circle Inspector of Police. PW 1 was projected by the prosecution as an eyewitness who is the nephew of the deceased and had accompanied the deceased when the latter went to realise debts from the villagers. On reaching the police station at Narasaraopet he was informed by the constable on duty that the Circle Inspector, PW 22, had already received information about the occurrence and had left for the village. The police constable at the police station refused to record the complaint presented by PW 1 on the ground that the said police station had no territorial jurisdiction over the place of crime. It was certainly a*

> *dereliction of duty on the part of the constable because any lack of territorial jurisdiction, could not have prevented the constable from recording information about the cognizable offence and forwarding the same to the police station having jurisdiction over the area in which the crime was said to have been committed.*

10. As far as merits of the matter is concerned, the name of petitioner is mentioned in the FIR and allegations are found specific against him. The police has recorded the statements of other witnesses including Ajju @ Ajay Soni who arranged the meeting of complainant with the petitioner and on perusal of his statement, involvement of petitioner in the alleged crime cannot be discarded. Apart from this, the Hon'ble Apex Court has settled the principle that when investigation is incomplete and going on with regard to cognizable offence, FIR can not be quashed.

11. In the case of ***State of Tamil Nadu Vs. S. Martin and others*** reported in ***(2018) 5 SCC 718,*** the Hon'ble Supreme Court has held as under:-

> *8. We are not expressing any opinion on merits or demerits of either the case of the prosecution or the defence of the accused but we are of the firm opinion that while the investigation was still incomplete, the High Court ought not to have interfered in the present case. Leaving all questions*

> *open to be agitated at appropriate stages in the proceeding, we set aside the view taken by the High Court and allow these appeals. Consequently Crime No. 304 of 2012 stands restored to its file and the appellant is free to conduct investigation and take the matter to its logical conclusion.*

12. In the case of **Satvinder Kaur (Supra),** the Hon'ble Supreme Court has also held as under:-

> *14. Further, the legal position is well settled that if an offence is disclosed the court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the FIR, prima facie, discloses the commission of an offence, the court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283] It is also settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482 CrPC to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; it has no jurisdiction to examine the correctness or otherwise of the allegations.*

13. Therefore, looking to the fact that in the instant case, *prima facie,* cognizable offence is committed by the petitioner and in relation thereof, investigation is still

incomplete. The respondent No.2 has also made specific allegations against the petitioner/accused. Therefore, it is not a proper case in which the inherent jurisdiction can be invoked by this Court.

14. Accordingly this petition is hereby **dismissed.**

(Rajendra Kumar Srivastava)
Judge

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