

**Serial No.01**  
**Supple List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

CrI.Petn. No.76 of 2023

Date of Decision: 22.03.2024

1.Shri. Deen Dayal Sharma  
S/o(L) Chiranji Lal Sharma  
Mahendru Enclave, Block-C  
GT Karnal Road  
P.S-Model Town Police Station  
Delhi-110033.

2. Smti. Premlata Sharma  
W/o Shri Deen Dayal Sharma  
Mahendru Enclave, Block-C  
GT Karnal Road  
P.S-Model Town Police Station  
Delhi-110033.

:::: Petitioners.

**Vs.**

Smti. Anjana Sharma  
W/o Shri. Ramesh Kumar Sharma  
R/o Kench's Trace, Oxford Hills,  
Laban, P.S. Laban,  
District East Khasi Hills,  
Shillong-793004,  
Meghalaya.

:::: Respondent.

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**Coram:**

**Hon'ble Mr. Justice B. Bhattacharjee, Judge**

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**Appearance:**

For the Petitioner(s) : Mr. K. Paul, Sr. Adv. with  
Mr. S. Panthi, Adv.

For the Respondent(s) : Mr. R. Choudhury, Adv.

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i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

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**JUDGMENT AND ORDER**

The present criminal petition under Section 482 of the Cr.P.C has been filed by the petitioners for setting aside and quashing of the order dated 18-02-2022 passed in C.R. case No.96 (S) 2021 under Sections 120B, 420, 406 and 418 IPC and also for quashing of the entire C.R. case No.96 (S) 2021 pending before the Court of the Judicial Magistrate, First Class, Shillong.

1. The petitioners herein are related as husband and wife and the respondent is the sister-in-law of the petitioner No.1 being the wife of the brother of the petitioner No.1.

2. The brief fact of the case is that the petitioner No.1 was appointed as lawful Attorney by the respondent to act on her behalf in respect of a property situated at colony Mahendru Enclave, Block-C, J.T. Karnal Road, Area of village Malikpur Chhaoni, Delhi having 150 Sq yds out of Khasra No. 351 being holding No. C/75A by a General Power of Attorney duly registered with the Sub-Registrar, Shillong on 21-05-2012. The General Power of Attorney was executed by the respondent for enabling the petitioner No.1 to deal with the developer/contractor and other statutory authority for

construction of a building on the understanding that the developer would provide two flats of 3BHK at the first and fourth floor to the respondent and the developer would take second and third floor of the same standard. Upon completion of the construction of the building before the Diwali festival of 2013, the petitioner No.1 along with his family, with permission of the respondent, moved to the first floor of the building with a condition that they would vacate the same as and when required. The petitioner No.1 was also requested by the respondent to look for a suitable customer for sale of the fourth floor of the building. However, even after lapse of 4/5 years, the petitioner No.1 failed to arrange a suitable customer as requested and also refused to vacate the first floor of the building. The respondent being worried made further enquiry into the matter and came to know from her contact that the petitioner No.1 has no intention of selling the fourth floor of the building and vacating the portion occupied by him.

**3.** To settle the matter, a family meeting was held on 25-12-2020 at Delhi wherein the petitioner No.1 raised certain unfounded claim not acceptable to the respondent and also demanded Rs 1 crore from the respondent for vacating the first floor of the building. In the said meeting the petitioner No.1 produced certain documents which revealed that he has sold the first floor of the building to his wife, the petitioner No.2, by a sale agreement dated 13-09-2013 authenticated before a Notary Public at Delhi for a consideration of Rs 8 lakhs. The petitioner No.1 also executed an indemnity bond, a General Power of Attorney, a possession certificate/letter, a formal money receipt and a Special Power of Attorney, all dated 13-09-2013, in favour of the petitioner No.2. In addition, the petitioner No.1 also sworn an affidavit dated 13-09-2013 confirming the Special Power of Attorney and executed a Will dated 13-09-2013 in favour of the petitioner No.2.

Being alarmed by the deceptive activities of the petitioner No.1, the respondent revoked the power of Attorney dated 21-05-2012 by executing a registered deed of revocation dated 26-02-2020 at Shillong and subsequently instituted the C.R. Case No.96(S) of 2021 under Sections 120B, 420,406 and 418 of the Indian Penal Code against the petitioner No.1 & 2, quashing of which is sought for in this present application.

**4.** Mr. K. Paul, learned Senior Counsel appearing for the petitioner submits that the petitioner No.1 being the brother of the husband of the respondent, has contributed immensely to the development and growth of the business of the respondent's husband without any remuneration. The husband of the respondent owes a considerable sum of money to the petitioner No.1 in terms of his salaries and also against the goods sent from Delhi for business expansion. The respondent in consultation with her husband, in lieu of all the dues, settled the property situated at Delhi by executing the General Power of Attorney dated 21-05-2012 in favour of the petitioner No.1. He contends that the General Power of Attorney was executed by the respondent out of her own free will and there is nothing on record to remotely suggest that the petitioners have ever induced her. The learned Senior Counsel submits that the allegation made in the complaint petition by the respondent do not fulfil the ingredients of Sections 120B, 420,406 and 418 IPC as the General Power of Attorney authorised the petitioner No.1 to sell the property. He further contends that the offences alleged in the complaint, if accepted as it is, have admittedly taken place at Delhi falling outside the territorial jurisdiction of the Trial Court and the taking of cognizance and issuance of process thereof by the Trial Court is without jurisdiction. According to him, it is incumbent upon the Trial Court as per

provision of Section 177 Cr.P.C. to first decide whether the alleged offence has taken place within its local jurisdiction before passing any order of issue of process. He submits that the report which was submitted pursuant to the investigation made by the police in terms of Section 202 Cr.P.C. also nowhere speaks of commission of any offence by the petitioners within the local jurisdiction of the Trial Court. He also contends that the learned Trial Court did not follow the mandate of Section 204 Cr.P.C. and proceeded with the case without recording any opinion as to the sufficiency of grounds for proceedings. The learned Senior counsel by placing reliance on the decision reported in (1992) SUPPL. (1) SCC 335, *State of Haryana and Others Vs. Bhajanlal and Others* (para 102), category (3) thereof, submits that when the allegations made in the complaint and the evidence collected do not disclose commission of any offence, the power of quashing should be exercised by the Courts. He also refers to the decision of the Apex Court in (2009) CRI. L. J. 1592, *Rajendra Ramchandra Kavalekar V. State of Maharashtra & Anr.* (para -13) to contend that every offence shall ordinarily be enquired into and tried by Court within whose local jurisdiction it was committed. On the above, he prays for quashing of the entire proceedings initiated on the basis of the complaint filed by the respondent.

5. On the other hand, Mr. R. Choudhury, learned counsel appearing for the respondent, submits that the husband of the respondent, being the elder brother, took all the care for upbringing the petitioner No.1 right from taking care of his education and helped the petitioner No.1 to start a business. He submits that even the marriage between the petitioner No.1 and the petitioner No.2 was arranged and funded by the respondent and her husband. The petitioners, taking advantage of love and affection of the respondent

and her husband, induced the respondent to execute the General power of Attorney dated 21-05-2012 in respect of the property in question on the pretext of developing it by raising structures for the benefit of the respondent. He submits that the facts and circumstances of the case clearly projects that the petitioners since long hatched the plan to cheat the respondent and induced her to execute the General Power of Attorney at Shillong in the year 2012 which the respondent could realize only at a later stage after disclosure of the fact of transfer of the first floor of her property by the petitioner No.1 to the petitioner No.2 in the meeting held on 25-12-2020. The learned counsel further submits that the petitioners were bound to protect the interest of the respondent but they did all the acts to cause wrongful loss to her in defiance of her wishes. He contends that the act of inducement by the petitioners and the execution of the General Power of Attorney has taken place at Shillong, well within the local jurisdiction of the Trial Court and hence, the taking of cognizance and issue of process by the Trial Court cannot be faulted with. He further submits that the Trial Court has derived its satisfaction from the statement of the respondent and the report of the police before directing for issue of process in the matter. The learned counsel also places reliance on para 103 of the decision of *State of Haryana and Others Vs. Bhajanlal and Others (supra)* and submits that the power of quashing a criminal proceeding should be exercised very sparingly and that too in the rarest of rare cases. He submits that there is no merit in the present case and the same be dismissed.

**6.** A careful perusal of the complaint of the respondent in C.R. Case No. No.96 (S) 2021 reveals that the respondent, who is the sister-in-law of the petitioner No.1, executed a General Power of Attorney in favour of the petitioner No.1 on 21-05-2012 at Shillong

appointing him to be her lawful attorney in respect of her land situated at Delhi for the purpose of facilitating the petitioner No.1 to deal with the developer/contractor for construction of a G+4 building on her land. The complaint also reveals that upon completion of the construction, the first and fourth floor of the building was to be given to the respondent and second and third floor to be retained by the developer. However, it appears that after the completion of the construction of the building in the year 2013, the petitioners took over the temporary possession of the first floor of the building with the initial consent of the respondent, which he refused to vacate even after lapse of 4/5 years of taking over of possession. The petitioner No.1 also failed to arrange a suitable customer for the sale of fourth floor of the building as desired by the respondent and on the contrary by executing various documents in the year 2013, transferred the first floor of the building in the name of the petitioner No.2. The information derived by the respondent through her contact in Delhi also made disclosure that the petitioner No.1 did not have any desire to sell the fourth floor of the building. Thus, it transpires that the entire text of the complaint, if accepted as correct, would definitely constitute a cognizable offence as alleged by the complainant.

7. Though the petitioners herein have narrated their versions of the fact of the case in this instant application, the same cannot be given primacy at this stage as per the established principles of law. This Court, at this juncture, is also not in a position to evaluate the merits of the contention of the respective parties based on the factual aspect of the matter. Contentions raised on behalf of the petitioners by placing reliance on the judgment of *State of Haryana and Others Vs. Bhajanlal and Others* speaks of considerations of the allegations made in the complaint and not otherwise.

8. Insofar as the question of issue of process by the Trial Court is concerned, the materials on record reveals that the Trial Court had taken into consideration the statement of the complainant and the investigation report submitted by the police in accordance with Section 202 Cr.P.C to derive its satisfaction before deeming it fit to order for issuance of process in the case. Though the Trial Court has not passed an elaborate order, but has made significant compliance of Section 204 Cr.P.C.

9. Coming next to the question of territorial jurisdiction of the Trial Court raised by the learned Senior Counsel, it is seen that the General Power of Attorney dated 21-05-2012 was executed and registered in Shillong. Whether the petitioners induced the respondent to execute the said General Power of Attorney is a question of fact to be decided after taking evidence in the matter. The offences alleged in the complaint are connected to the execution of the General Power of Attorney and hence, at this stage it cannot be said that the Trial Court at Shillong has no territorial jurisdiction to try the matter though it appears that the property in dispute is situated outside Shillong and a major part of the alleged offence has also taken place outside Shillong. The case of *Rajendra Ramchandra Kavalekar V. State of Maharashtra & Anr. (supra)* relied on by the learned Senior Counsel also does not lend any support to the petitioners' case as it lays down that in a case of commission of a large number of offences, the fact that major part of the offence took place outside the jurisdiction of a particular Court would be of no relevance if it is shown that a small part of the offence was committed within the jurisdiction of the said Court.

10. Furthermore, the Apex Court in (2020) 10 SCC 92, *Kaushik Chatterjee Vs. State of Haryana & Others* held:-



*“38. But be that as it may, the upshot of the above discussion is:*

*38.1. That the issue of jurisdiction of a court to try an “offence” or “offender” as well as the issue of territorial jurisdiction, depend upon facts established through evidence.*

*38.2. That if the issue is one of the territorial jurisdiction, the same has to be decided with respect to the various rules enunciated in Sections 177 to 184 of the Code.*

*38.3. That these questions may have to be raised before the court trying the offence and such court is bound to consider the same.”*

**11.** It emerges from the above that the question of territorial jurisdiction in a criminal case depends upon facts established through evidence and the question has to be raised before the Court trying the offence. The petitioners herein, as such, will have the liberty to raise the issue of territorial jurisdiction before the Trial Court.

**12.** In view of the discussions made, there is no merit in the present application and the same is hereby dismissed.

**13.** It is made clear that this Court has neither gone into the merits of the allegations made in the complaint nor has decided the issue of territorial/local jurisdiction of the Trial Court. It would be open for the learned Trial Court to take its own independent view without being influenced by any of the observations made in this order in deciding the various pleas which may be raised by the rival parties during the course of the trial.

**JUDGE**

Meghalaya  
22.03.2024  
“Biswarup-PS”