

GJAH090009722013



-:: CRIMINAL CASE NO. 1194 / 2013 ::-

- ORDER BELOW EXH : 34 -

(1) The present application has been preferred by the accused – Subhashsingh N. Singh, inter-alia contending that this Court lacks territorial jurisdiction to try the present case registered for the offences punishable under Sections 406, 408, 420, 467, 468 and 471 of the Indian Penal Code. It is, therefore, prayed that appropriate order may be passed in this respect and by mentioning the reason in his application, has prayed to allow the present application.

(2) That as per the complaint, the accused of the present case was working as a Manager in Shiv Carriers Company (Kolkata-Howrah Branch, West Bengal), whose head office was situated at Opp. Railway station, Sanand. That during the period from 25.10.2010 to 22.09.2011, taking undue advantage of his position, he misused the authority entrusted to him and dishonestly collected the amount of Rs.40,69,500/- from the customers of the complainant at his Kolkata-Howrah branch, in respect of goods which were sent in containers by rail from the godown of Shiv Carriers, situated at Sanand. That he created a fake company namely Svash Corporation, and deposited the collected amounts into the account with HDFC Bank, by using the PANCARD of the complainant and when the complainant came to know about it, the accused confessed to having committed fraud of Rs.60,00,000/- and thereby committed breach of trust, and out of this amount, he repaid Rs.9,00,000/- to gain the complainant's confidence, but thereafter failed to return the

remaining Rs.51,00,000/-. Thus, by cheating the complainant company and committing criminal breach of trust, the accused is alleged to have committed the above offence in question.

(3) The Learned Advocate for the accused has submitted that the present Court has no territorial jurisdiction to entertain the complaint. It has been argued that the alleged transaction pertains to the Kolkata/Howrah Branch Office, and if any offence has been committed, the complaint ought to have been lodged within the jurisdiction of the said Branch Office, and merely because the complainant company's Head Office is situated at Ahmedabad, the complaint cannot be instituted before the Courts at Ahmedabad. It was argued that territorial jurisdiction cannot be conferred solely on the basis of the location of the Head Office. It has been further argued that the alleged sale transactions took place at Kolkata, the office of the complainant company is also situated at Kolkata, and the sale consideration was received at Kolkata. Therefore, no part of the cause of action has arisen within the territorial jurisdiction of this Court. Learned Advocate further contended that the complainant has already recovered an amount of Rs. 9,00,000/- from the accused by exerting pressure through the police machinery and has also obtained an agreement from him. Hence, he has argued that in view of the above discussions, the present application may be allowed.

(4) Per contra, the learned Addl.P.P for the State has submitted that the letter-head of the complainant company specifically contains the clause "Subject to Ahmedabad Jurisdiction.". It is further submitted that the goods were transported from Sanand to Kolkata for sale, and the accused, while acting as the Manager of

the complainant company, dishonestly misappropriated the sale proceeds of the goods after their sale. Thus, a part of the cause of action arose within the jurisdiction of this Court. Therefore, this Court has the territorial jurisdiction to entertain and try the present complaint. It was, therefore, prayed that the objection regarding territorial jurisdiction raised by the accused be rejected.

(5) I have perused the entire record and heard the arguments of both the parties. At this juncture it is necessary to take into consideration following provision of the Code of Criminal Procedure.

“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.

178. Place of inquiry 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 a 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 inquired into or tried by a Court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues.—

When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.”

(6) On reading the above provisions, section 177 provides that generally the offence should be tried where it was committed, however, section 179 of the code plays a rider to the said provision stating that if due to commission of any offence, any consequences have ensued, then the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued. Applying the above provisions to the facts of the case on hand, though the alleged fraudulent company named Svash Corporation was established by the accused at Howrah, West Bengal and has been alleged to have fraudulently collected the amount of Rs. 40,96,500/- in the name of Svash Corporation, it appears from the complaint and the charge-sheet that the goods were sent from the head office of the Shiv Corporation at Sanand and the bills for the same were also sent for the collection of the amount of the goods sold from the Sanand and consequence of the alleged act of collecting the amount in the name of Svash corporation, that is the financial loss is occurred to the head office at Sanand. Therefore, the consequences of the offence have ensued in Sanand. Since the series of transactions began in Sanand (dispatch of goods and generation of bills) and culminated in Howrah (alleged fraudulent collection via a fake entity and forgery), the acts constituting the overall crime were spread across both places. Under Section 179 CrPC, when an act is an offence by reason of anything done and any consequence that has ensued, it may be tried by a court within whose jurisdiction the act was done or the consequence ensued. The financial loss resulting from the fraudulent collection was suffered directly at the company's Head

Office in Sanand. The funds were legally required to be accounted for or remitted for at Sanand.

(7) Therefore, in light of the above discussion, this court is of the considerate opinion that this court has the jurisdiction to try the offence, therefore, following final order is passed in the interest of justice:-

-:: ORDER ::-

(1) The application filed by the accused is hereby rejected.

Order passed in the open court on the 6th day of August, 2026.

Date:- 06/08/2026

Place:- Sanand

(P.R.CHHAPIA)

2nd Addl. Judicial Magistrate First Class
Sanand, Ahmedabad (Rural)