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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 335/2020**

SOMESH SHARMA Petitioner

Through : In person.

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through : Mr.M.S.Oberoi, APP for the State.
Ms.Arati Singh, Mr.Aakashdeep Singh
Roda, Mr.Basant Pal Singh,
Advocates for R2/PNB.
Mr.Rajesh Kumar Gautam, Mr.Anant
Gautam and Mr.Nipun Sharma,
Advocates for R3/Indian Bank.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **02.02.2021**

1. The hearing has been conducted through Video Conferencing.
2. This petition is filed against the impugned order dated 28.07.2020 passed by the learned Special Judge, (PC Act) (ACB-01), Rouse Avenue Courts, New Delhi in CC No.65/2019 titled Somesh Sharma vs PNB & Ors whereby the complaint under Section 156(3) Cr.P.C. filed by petitioner was dismissed by the learned Trial Court stating inter alia:

14. Admittedly, the complaint has earlier filed a similar complaint at Punjab on the same facts and the same has been dismissed by the said court on 10.10.2014. the same does not seem to have been dismissed on merits but appears to have been dismissed in default. When the application U/s 156(3) Cr.P.C of the complainant was not allowed by the concerned Magistrate at Punjab, he had approached the Session Court and his revision was allowed and the Sessions Court had directed the concerned Magistrate to re-hear the arguments on the application u/s 156(3) Cr.P.C. The complainant thereafter does not seem to have appeared before the court of the concerned Magistrate and has not advanced his arguments afresh on his application



U/s 156(3) Cr.P.C and now on 30.04.2019 has filed this complaint in Delhi instead.

15. *As per the documents available on record, two FIRs have been registered against the present complaint – one is FIR No.32/12, PS Zirakpur, SAS Nagar, Punjab and the other is FIR No.79/11, U/s 420 IPC, PS Bhawani Garg, Sangrour, Punjab, The FIR No. 32/12 has been quashed by the Hon'ble Supreme Court on 06.12.2016 on the report of the police that they had in any case prepared closure/cancellation report as the complainant could not be traced. However, in RR No.79/11, the complainant Somesh Sharma has been declared Proclaimed Offender as per report filed by Crime Branch. The complainant instead of submitting to e jurisdiction of the Court and providing the defence in FIR No.79/11, has filed the present complaint in Delhi stating that he has threat to his life and at if he goes to Punjab he would be arrested and therefore, he wants to file the present complaint in Delhi. However, this is no ground to file the present complaint within the jurisdiction of Delhi courts and the accused/complainant should first submit himself before the concerned court Sangroor where he has been declared PO.*

16. *The complainant has relied upon various cases laws to substantiate plea that second complaint is maintainable in case his first complaint not been decided on merits. On this issue, this court agrees with the arguments of the Learned Counsel for the complainant that if the first complaint as not been decided on merits then even the subsequent complaint is untainable. But the question herein is that once the complainant knows that the jurisdiction is of Punjab and not Delhi and offence has been committed at Punjab then can be choose to file second complaint at Delhi learned counsel for the complainant has relied upon judgement of Hon'ble Delhi High Court in case of Kirti Vashisht Vs. State & Ors. 2019 Online Del 11713, in Kirti Vashisht Vs. State, the complainant had was filed the complaint before PS Najafgarh which was closed after an enquiry. Second complaint was filed at PS Baba Haridass Nagar which was also closed after enquiry. [The third complaint was again filed at PS Najafgarh, the same was also closed after enquiry. However, fourth complaint was filed at PS Kapashera, on which the enquiry was being conducted by the IO. It was thus, observed by the Hon'ble*



High Court that a complaint of cognizable offence is received in PS and offence has occurred in the jurisdiction of other PS then in that case, the zero FIR was to be lodged by the PS which has received the complaint and thereafter, transfer the said complaint to the concerned PS. However, the facts of the distinguishable from the facts of Kirti Vashisht Vs. State case Supra. In Kirti Vashisht case, there was no communication to the complaint regarding the outcome of the various complaints and therefore, she was running from to pillar and post to get justice,

17. *In the present case, the complainant knows that his revision was allowed and he was given an opportunity to advance his arguments afresh before the concerned ACJM on his application u/s 156(3) Cr.P.C instead advancing arguments in the said court before the concerned ACJM, the complainant has absented himself there and said complaint of the complainant appears to have been dismissed, in default and now the complainant has filed the present complaint in Delhi stating that even if jurisdiction or Delhi is not made out, zero FIR should be registered and investigation should be transferred to the concerned PS.*

18. *However, if such practices are allowed, it would certainly lead to chaos in as much as every complainant would go into forum hunting and would try to get his FIR registered in one or the other PS. Moreover, no offence appears to have been committed within the jurisdiction of Delhi. The documents filed by the complainant as relied upon are Annexure-A5 which revivals tot the concerned banks are located at Patiala, Punjab. The accounts of the concerned candidates who have applied for Visa for going road also located at Patiala, Punjab. The FDs etc. were also maintained PNB, Patiala Branch, Punjab. The money transactions have taken place at Patiala. The forged documents, if any, have also been, submitted at Patiala, Punjab and thus the offence has been committed within the jurisdiction of Punjab and not at Delhi.*

19. *In the present cases, the complainant clearly knows about the outcome of his complaint and his revision. It is settled law that the jurisdiction is decided by the place where the offence is committed. From the facts as stated in the complaint and the documents fled along with, no offence has been committed at Delhi. Merely because the*



head office of the fined bank is at Delhi is no ground for entertaining the present application as the offence has been committed in Punjab.

3. The learned APP for the State has appeared on advance notice. She intends to file status report. Be filed prior to next date of hearing with an advance copy to the learned counsel for the petitioner.

4. List on 18.05.2021.

YOGESH KHANNA, J.

FEBRUARY 02, 2021

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