

HIGH COURT OF ANDHRA PRADESH**Bench: Dr. Justice K. Manmadha Rao****Date of Decision: 9th February 2024**

WRIT PETITION Nos. 9672 and 9664 of 2014

NEW LOOK RETAILS PVT LTD., MUMBAI 2 OTHERS ...PETITIONER(S)**VERSUS****CBCID, HYD 3 OTHERS ...RESPONDENT(S)****Legislation:**

Indian Companies Act, 1956

Prize Chits and Money Circulation Scheme (Banning) Act, 1978

AP Protection of Depositors of Financial Establishment Act

Section 41, 154, 162 of the Code of Criminal Procedure (Cr.P.C.)

Subject: Writ petitions challenging the transfer of FIRs to different regional offices of CBCID, alleging violations of fundamental rights due to the threat of multiple arrests and investigations for the same incident.**Headnotes:**

Petitioner's Challenge to FIR Transfers – Petitioners challenged the transfer of FIRs related to alleged violations of Prize Chits and Money Circulation Scheme Act to different regional offices of CBCID – Alleged violation of fundamental rights due to potential for multiple arrests and investigations for the same incident – Issue of whether different transactions at various company malls constitute separate crimes [Paras 3-9, 14].

Counter Affidavit by Respondents – Respondents denied allegations – Argued each mall transaction constitutes a separate crime, warranting separate investigations – Asserted that combining multiple complaints could lead to confusion and jeopardize justice [Paras 6-7, 15-16].

Court's Analysis and Decision – Court observed that each mall establishment of petitioners' company in different locations led to separate incidents and crimes – Held that separate investigations for each transaction were justified – Dismissed writ petitions, finding no merit – Granted liberty to petitioners to challenge the final report if irregularities are found [Paras 12-19].

Referred Cases:

- Devagupthapu Hara Venkata Surya Satyanarayana Murthy versus State of Andhra Pradesh rep by its Principal Secretary and others 2022 SCC OnLine AP 240
- Akbaruddin Owaisi vs. The Government of Andhra Pradesh and Ors. 2013(2) ALD (Cr.), 855 (AP)

Representing Advocates:

Sri S. Nirajan Reddy for petitioners

Smt. Y.L. SivaKalpana Reddy for respondents

COMMON ORDER :

As the issue involved in both the Writ Petitions is one and the same, they are being taken up for hearing as well as disposed of by way of this Common Order.

2. Heard Sri S. Nirajan Reddy, learned counsel appearing for the petitioners and Smt. Y.L. Siva Kalpana Reddy, learned Standing Counsel for CID appearing for the respondents.
3. Since the facts in both the writ petitions are similar and identical, therefore WP No.9672 of 2014 is taken as lead case, and the facts therein hereinafter will be referred to for convenience.
4. The 1st petitioner is a company incorporated under the Indian Companies Act, 1956 as Newlook Multitrade Private Limited on 14.2.2008. the 1st petitioner owns and operates a chain of retail stores under the name and style "N Mart Retails", the 2nd petitioner herein is the first ever chain of retail stores to be operated on a network plan established after obtaining all the necessary licenses/approvals including VAT, Labour, Weights and Measures etc. N Mart Retails has established and is successfully running more than 275 "N Mart"

retail stores across India. While the matter stood thus, an NGO Corporate Frauds Watch, lodged a complaint against the 2nd petitioner and the directors/officials of the 1st petitioner in P.S Pattabhipuram, Guntur Urban vide FIR No.440/2011 dated 07.11.2011 for purported violations of various provisions of the Prize Chits and Money Circulation Scheme (Banning) Act 1978. The Police Kandukuru arrested the 3rd petitioner on 30.04.2013 and produced before the District and Sessions Judge, Ongole in FIR No.154 of 2012. As on the day of arrest of the 3rd petitioner 9 cases were registered against the 3rd petitioner, the police shown the remand of the 3rd petitioner only in FIR No.154 of 2012 contrary to the provisions of Cr.P.C.

While so, upon the representation of the petitioner that all the cases are similar and may be entrusted to one agency for investigation the offense registered vide FIR No.583 of 2012 of Machavaram Police station Vijayawada and FIR No.440 of 2011 of Pattabhipuram Police station, Guntur were transferred by the Government of A.P to Range Office, CB- CID Vijayawada-2nd respondent for investigation. Aggrieved by the action of the Government in transferring only 2 cases to the Range Office, CB-CID Vijayawada though cases were registered before 10 police stations the petitioners No.1 and 2 approached this Court by way of filing writ petitions vide W.P.nos.18379, 24028 and 28809 of 2013 and this court granted interim directions in the above writ petitions not to arrest the petitioners vide orders dated 11.10.2013. Thereafter, the 3rd petitioner was released on bail on 27.09.2013 in all offences except the crimes registered in FIR No.81 of 2013 on the file of Police Narasaraopet Guntur District and FIR No.104 of 2013 on the file of Police III Town Adhoni, Kurnool District as the petitioners did not apply for grant of bail.

Since the 3rd petitioner and the personnel/executives of the 1st and 2nd petitioners are being arrested and released on bail all of them have been in remand for more than 150 days, that in view of the illegal action of transferring the FIRs registered against the petitioners to different Regional Offices to CBCID to different Ranges of 1st respondent spread in the entire state would result in violation of the fundamental rights of the 3rd petitioner and the personnel/executives of the petitioners No.1 and 2 exposing them to the threat of arrest. It is further stated that once the cases have been transferred to CBCID notwithstanding the different offices being run by the agency, the entire State of A.P. has been notified as one jurisdiction for the operation of CBCID. Once cases in which the petitioners have been arrested where charge sheets have been filed and the fact that in some other cases charge sheets have yet to be filed would not make any difference as it is the same agency that has entrusted the responsibility of continuing the investigation. Hence, the present writ petitions.

5. This Court vide order dated 03.04.2014, while issuing Notice before admission in both the writ petitions, granted stay of arrest for a period of ten weeks and the same was extended from time to time .

6. The counter affidavits are filed in both the matters, for convenience, the averments in counter in W.P.No.9672 of 2014 are stated as under:
7. The 4th respondent has filed counter affidavit and denied all the allegations made in the petition. It is stated that case in Cr.No.440/2011 of Pattabhipuram PS is investigated by R.O, CIID, Vijayawada vide orders in C.No.2647/C-13/CID/2011, dated 02.05.2013. It is not true that the complainant in Cr.No.440/2011 of Pattabhipuram P.S. is reported by one Ch.Divakar Babu of NGO, Corporate Fraud watch and in Cr.No.154/2012 of Kandukuru town P.S. complains by one M.V.Syamsundar of NGO, Corporate Fraud watch, the society is the same, but the complainant's are different in the same organization. It is stated that though the CID is the single independent investigating agency, depending upon the jurisdiction of the case, on it's occurrence, different cases were registered for each transaction. Each mall of the petitioner's company started at different places constitutes different crimes. Therefore as per law, each transaction would give rise to different single transaction and the investigating agency would be entitled to investigate the matter as prescribed under the provisions of Cr.P.C. It is stated that transferring in FIR No.104 of 2013 of Adoni III Town Police Station of Kurnool District and in FIR No.368 of 2012 of Gajuwaka police station of Visakhapatnam to Regional Office's where these cases entrusted are within the part of A.P. State Crime Investigation Department. In furtherance of the procedure difficulties, it is also to note that if several complaints are treated as one in one crime number, the investigation may not conclude expeditiously and it would result in miscarriage of justice. Hence, prayed to dismiss the writ petition and to vacate the interim orders passed in both the writ petitions.
8. Reply affidavit has been filed by the petitioners to the counter affidavit filed by the respondents and denied the contents made in the counter affidavits. The petitioners while reiterating the contents made in the petition stated that the entrustment of investigation of CID was made to remove all practical difficulties and for conducting of a comprehensive investigation regarding to the business model of the petitioner company whether violating the provisions of the Prize Chits and Money Circulation ((Banning) Act and AP Protection of Depositors of Financial Establishment act. The conducting of investigation by one agency would save time, manpower and also avoid the conflicting investigation reports if made by different regional offices/investigating officers. Even though the different regional offices are within the part of A.P. State Crime Investigation Department, the entrustment of the cases to different regional offices is contrary to the order made in W.P.No.18379 of 2013 & batch recording the proceedings of the 2nd respondent while Memo, dated 12.12.2013. On account of transfer of cases to three different regional offices within the same police station this would result in three (3) FIRs in respect of which investigation would be conducted, which is contrary to the purposes of transfer order of the 2nd respondent by a single agency. Once the cases have been transferred to CBCID, notwithstanding the different offices being run by the agency, the entire State of AP has been notified as one jurisdiction for the operation of CBCID. Once cases in which the petitioners have been arrested where charge sheets have been filed and the fact that in some other cases

charge sheets have yet to be filed would not make any difference as it is the same agency that has entrusted the responsibility of continuing the investigation. It is further stated that the process of the present investigation in regard to different regional offices of CB CID and investigation officers would be eventually culminating into diversified final reports independent to each other causing severe prejudice to the petitioners. The same would also result in serious prejudice to the petitioners and also lead to multiplicity of litigation further causing considerable delay and also may result in conflicting judgments.

9. Learned counsel for the petitioners submits that even though the different regional offices are within the part of A.P. State Crime Investigation Department, the entrustment of the cases to different regional offices is contrary to the order made in W.P.No.18379 of 2013 & batch recording the proceedings of the 2nd respondent while Memo, dated 12.12.2013. On account of transfer of cases to three different regional offices within the same police station this would result in three (3) FIRs in respect of which investigation would be conducted, which is contrary to the purposes of transfer order of the 2nd respondent by a single agency. He further submits that since the 3rd petitioner and the personnel/executives of the petitioners No.1 and 2 are being arrested and released on bail, all of them have been in remand for more than 150 days. He submits that in view of the illegal action of transferring the FIRs registered against the petitioners to different Regional Offices of CBCID to different Ranges of 1st respondent spread in the entire state would result in violation of the fundamental rights of the 3rd petitioner and the personnel/executives of petitioners No.1 and 2 exposing them to the threat of arrest. He further submits that once cases in which the petitioners have been arrested where charge sheets have been filed and the fact that in some other cases charge sheets have yet to be filed would not make any difference as it is the same agency that has entrusted the responsibility of continuing the investigation. He further submits that the investigating agency followed the common order made by this Court in W.P.No.18379 of 2013 & batch dated 13.12.2013. The process of the present investigation with regard to the different regional offices of CB CID and investigation officers would be eventually culminating into diversified final reports independent to each other causing severe prejudice to the petitioners. The same would also result in serious prejudice to the petitioners and also lead to multiplicity of litigation further causing considerable delay and also may result in conflicting judgments.
10. Learned counsel for the petitioners has relied upon the decisions of High Court of Andhra Pradesh reported in (i) Devagupthapu Hara Venkata Surya Satyanarayana Murthy versus State of Andhra Pradesh rep by its Principal Secretary and others¹, (ii) Akbaruddin Owaisi vs. The Government of Andhra Pradesh and Ors.²
11. However, the facts of the above cases are not applicable to the present cases.

12. As registration of two complaints relating to the very same incident/event in two different police stations (except in cases where the Rule referred to hereinabove, against registration of two FIRs for the same incident/offence, will not apply), would result in parallel investigations being caused there into, it is necessary to briefly note the powers of a police officer in causing investigation pursuant to information having been received of the commission of a cognizable offence. Section 41(1) Cr.P.C. empowers any police officer, without an order from a Magistrate and without a warrant, to arrest any person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he had committed a cognizable offence. While Section 41(1)(b) circumscribes the satisfaction to be arrived at by the police officer before making the arrest it is evident that, subject to the limitation in Section 41(1)(b), the power to arrest an accused is conferred on in every police officer investigating a cognizable offence.
13. Ordinarily the Court will not interfere with the investigation of a crime or with the arrest of an accused in a cognizable offence. Arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, and to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. (*Parvinderjit Singh v. State*). The word 'arrest', is derived from the French word 'Arreter' meaning "to stop or stay" and signifies a restraint of the person. The word 'arrest', when used in its ordinary and natural sense, means the apprehension or restraint or the deprivation of one's personal liberty. The question whether the person is under arrest or not, depends not on the legality of the arrest, but on whether he has been deprived of his personal liberty to go where he pleases. (*Directorate of Enforcement v. Deepak Mahajan*). At the stage of investigation and initial arrest the rule of *audi alteram partem* has no application and the accused has no right of notice or hearing before his arrest, if any, in a cognizable case. (*Ajeet Singh v. State of Uttar Pradesh; Union of India. v. W.N. Chadha*⁹¹). Likewise the investigating officer is given the power, under Section 41-A Cr.P.C, to require before himself the attendance of any person appearing to be acquainted with the circumstances of the case. He has also the authority to examine such a person orally and to reduce his statement into writing in the manner provided in Section 162. (*H.N. Rishbud*).
14. Multiple investigations by multiple police stations could well result in an accused, who can eventually be tried and punished for the said incident only once, being subjected to repeated arrests by different investigating officers, and being called upon to appear before different police officers attached to different police stations, in connection with the investigation of the same

offence. While the power to arrest an accused is conferred on the investigating officer under Section 41 Cr.P.C, construing the provisions of the Cr.P.C. as enabling different investigating officers attached to different police stations to, one after the other, arrest the same person for the same incident/occurrence would not be a fair or a just procedure. The petitioner's fundamental rights, under Article 21 of the Constitution of India, would be violated as he would not only face the threat of imminent and numerous arrests by different investigating agencies for the same incident/occurrence, but his liberty would also be restricted on his being required to appear before different investigating agencies conducting parallel investigation into the same incident.

15. On perusing the entire material available on record this Court observed that since the malls are independently established in different places, victims are approaching the concerned jurisdictional police station under Section 154 Cr.P.C and thus independent cases were registered as per law. It is further observed that, though the CID is the single independent investigating agency depending upon the jurisdiction of the case, on its occurrence, different cases were registered for each transaction. Each mall of the petitioner's company started at different places constitutes different crimes. Therefore, as per law, each transaction would give rise to different single transaction and the investigating agency would be entitled to investigate the matter as prescribed under the provisions of Cr.P.C.
16. The multifarious complaints of similar nature cropped up across the State. The complaints were registered as crimes. Each of the complaint is from a particular place in the State and as a separate set of facts and witnesses relating to the said complaint are only referable to only that complaint alone. It is true that the complaints of similar nature of particular crime committed by a corporate body or an individual can be registered and the subsequent complaints be recorded as statements in the said crime. However, the practical difficult for the prosecution during investigation and the Court during trial would be to the extent of the confusion that would be created by each of the witnesses. In fact, there may be a possibility of some of such witnesses being one over by the accused may turned hostile that may vitiate the entire criminal case. So, in view of above procedure difficulties, if several complaints are treated as one in one crime number, the investigation may not conclude expeditiously and it would result in miscarriage of justice.
17. In the present case, it is observed that, during pendency of the writ petitions, charge sheets were already filed and that the petitioners preferred transfer of petitions for want of combined trial. But nowhere it is stated by the petitioners in the affidavits that single investigation is going on. The apprehension of the petitioners is that while conducting investigation there are some irregularities. If at all any irregularities are there, they have to challenge the final report but not by way of consideration in these writ petitions.

18. In view of the foregoing discussion, this Court do not accept the reasons mentioned by the petitioners at this stage. Finding no merit in the instant writ petitions, devoid of merits and the same are liable to be dismissed.
19. Accordingly, the Writ Petitions are dismissed. However, if at all any irregularities are there, liberty is granted to the petitioners to challenge the final report before appropriate authority, in accordance with law. There shall be no order as to costs.
20. It is made clear that the interim orders granted by this Court are hereby vacated.
21. As a sequel, interlocutory applications, if any pending, shall stand closed.

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