SUPREME COURT OF INDIA **REPORTABLE**

Bench: Justices Vikram Nath and K.V. Viswanathan

Date of Decision: 18 April 2024

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. ARISING OUT OF SLP(Crl.) Nos. 8663-8665 of 2023, and SLP(Crl.) No. 7301 OF 2022

THE STATE OF ARUNACHAL PRADESH …APPELLANT(S)

VERSUS

KAMAL AGARWAL & ORS. ETC. …RESPONDENT(S)

WITH CHANDRA MOHAN BADAYA …APPELLANT(S)

VERSUS

THE STATE OF ARUNACHAL PRADESH & ORS. …RESPONDENT(S)

Legislation:

Sections 420, 120B, 34 of the Indian Penal Code, 1860

Subject: Appeals arising from disputes over financial transactions allegedly for property purchase, involving accusations of cheating and conspiracy; disputes over FIR registration and jurisdiction between Arunachal Pradesh and Rajasthan.

Headnotes:

Background & FIR Details – FIR No.227/2017 lodged at Police Station Pasi Ghat, East Siang District, Arunachal Pradesh against several accused for alleged cheating and conspiracy regarding a ₹1 Crore transaction purportedly for a property purchase in Rajasthan – Issues of jurisdiction and nature of the dispute raised – Gauhati High Court upheld FIR while Rajasthan High Court quashed it on jurisdictional grounds [Paras 2-5, 7-9].

Jurisdiction – Lack of Territorial Jurisdiction in Criminal Proceedings – Criminal appeals arising from FIR No. 227/2017 registered in Arunachal Pradesh for alleged cheating and conspiracy in real estate transactions in Rajasthan – Held, the State of Arunachal Pradesh lacks territorial jurisdiction as no part of the alleged offence occurred within its territory, all involved parties and properties located in Rajasthan – Rajasthan High Court's quashing of proceedings upheld, Gauhati High Court's order set aside. [Paras 5.5, 14, 15]

Nature of Dispute – Civil vs. Criminal – Analysis of FIR and subsequent charges for cheating involving financial transactions for land in Rajasthan – Held, the dispute primarily civil concerning transaction details and property transfer – Criminal charges inappropriate for matters that should be resolved via civil litigation – Supreme Court quashes FIR and all related criminal proceedings. [Paras 12, 13]

Criminal Law – Misuse of Legal Process – Examination of the motives and circumstances behind the registration of FIR in Arunachal Pradesh and subsequent legal actions – Held, filing and maintenance of criminal charges constituted a misuse of legal process, addressing issues more apt for civil court resolution – Entire FIR and consequent chargesheet quashed. [Paras 13, 16]

Decision: Appeals by Chandra Mohan Badaya allowed; FIR and subsequent proceedings quashed - Appeals by the State of Arunachal Pradesh dismissed; no grounds to overturn Rajasthan HC’s decision.

Referred Cases:

- State of Haryana vs. Bhajan Lal (1992) suppl. 1 SCC 335

J U D G M E N T

VIKRAM NATH, J.

Leave granted.

2. Both the above appeals arise out of the First Information Report[1] registered as FIR Case No.227 of 2017 at Police Station Pasi Ghat, District Siang East, Arunachal Pradesh for offences under section 420/120B/34 Indian Penal Code, 1860[2] lodged by Mr. Anil Agarwal attorney holder for Mr. Okep Tayeng, the proprietor of M/s Shiv Bhandar. This FIR was registered against several named accused, details of which will be dealt with at a later stage and additional names surfaced during investigation.

3. Three of the accused namely Chandra Mohan Badaya and Respondent Nos.3 and 4 namely Shashi Natani and Rajesh Natani filed a petition for quashing the FIR before the Gauhati High Court registered as Criminal Petition No.91 of 2021. The said petition was dismissed by Gauhati High Court by judgment and order dated 24.06.2022. Aggrieved by the same, SLP (Crl.) No.7301 of 2022 has been filed by Chandra Mohan Badaya. Five other co-accused filed writ petitions before the Rajasthan High Court also praying for quashing of the same FIR No.227 of 2017. The details of three petitions filed before the

Rajasthan High Court are as follows:

Accused	**Writ Petition No.**
1. Kamal Agrawal 2. Hemani Agrawal	**Writ Petition No.987 of 2022** Pg. No.227 of SLP(Crl.) No.8663-8665 of 2023
3. Manish Kumar Tambi 4. Alpana Tambi	**Writ Petition No.988 of 2022** Pg. no.246 of SLP (Crl.) No. 86638665 of 2023

[1] FIR
[2] IPC

5. Pawan Agrawal	**Writ Petition No.989 of 2022** Pg. no.265 of SLP (Crl.) No. 86638665 of 2023

4. These three petitions were allowed by the Rajasthan High Court vide judgment dated 23.05.2023. Aggrieved by the same, the State of Arunachal Pradesh has filed three Special Leave Petition Nos.8663-8665 of 2023. Interestingly the complainant did not come forward to challenge the order of the Rajasthan High Court quashing the proceedings. Since both the set of matters relate to same FIR, the same have been taken up together and are being decided by this common order.

5. Brief facts giving rise to the present appeals are as follows:

5.1. M/s Shiv Bhandar, the proprietorship concerned transferred an amount of Rs.1 Crore in the year 2016 in the account of Chandra Mohan Badaya, two of his proprietorships concerned and Rajesh Natani in four equal transactions of 25 lakhs each. According to the appellant Chandra Mohan Badaya, the amount was transferred as a loan, however, according to the complainant the said payments were made for purchase of land/building situate between plot No.A-47 to A-55, Sikar House, near Chandpole, Jaipur, Rajasthan. Relevant to mention here that there is no written agreement with respect to the purpose of the transfer of said amount, whether it was a loan or an advance towards purchase of land/building referred to above.

5.2. According to Chandra Mohan Badaya, out of Rs.75 lakhs received by him and his two concerns, he repaid Rs.37 lakhs to the complainant from his personal and proprietorship accounts by way of bank transfer. This amount was repaid in 2016-2017. Further, according to Chandra Mohan Badaya, he executed two sale deeds with respect to two properties situate in Chaksu, Jaipur in favour of wife (Smt. Shalini Agarwal) and sister-in-law (Smt. Jaya Agarwal) , Shri Anil Agarwal, Power of Attorney holder of the complainant proprietor. Although the total sale consideration for both the sale deeds was Rs.1.08 Crores, out of which an amount of Rs.27 lakhs each i.e. total Rs.54 lakhs only was received by the petitioner. These sale deeds are dated 10.10.2016. It was much after all these transactions that the FIR in question was lodged on 23.11.2017 against the following persons:

i) Sh. Chandra Mohan Badaya

ii) Sh. Rajesh Natani

iii) Smt. Shashi natani

v) Sh. Kishan Badaya

vi) Smt. Tina Badaya

vii) Smt. Sushila Devi Badaya

5.3. During investigation, some of the names mentioned in the FIR were dropped and others were added. Finally, chargesheet was submitted against eight persons:

i) Sh. Chandra Mohan Badaya ii) Smt. Tina Badaya iii) Sh. Rajesh Natani iv) Sh. Pawan Agrawal v) Sh. Kamal Agrawal vi) Smt. Hemani Agrawal vii) Sh. Manish Kumar tambi viii) Ms. Alpana Tambi

5.4. On the basis of the said chargesheet, cognizance was taken by the Chief Judicial Magistrate, Senior Division, Pasighat, East Siang district, Arunachal Pradesh, and a case bearing GR No.225 of 2017 was registered.

5.5. As already noted above, two sets of petitions were filed before two different High Courts namely Gauhati High Court and Rajasthan High Court. The challenge before the High Court was primarily on two grounds, firstly, that no part of offence had been committed in Arunachal Pradesh as such there was lack of complete territorial jurisdiction for registration of FIR in Arunachal Pradesh. The Police ought not to have investigated the said matter for the reason that all the accused persons were residents of Rajasthan, the properties were situated in Rajasthan, the transfer by the sale deed with respect to the property was also in Rajasthan, even the power of attorney holder and the complainant were residents of Rajasthan and therefore, the FIR ought to be quashed on this ground alone.

5.6. The second ground taken was that even if it is assumed that the State of Arunachal Pradesh would have jurisdiction to entertain the FIR and investigate, it was purely a civil dispute relating to transaction of funds and transfer of properties and being purely a civil/commercial dispute, the lodging of the FIR was just a misuse of the process of law and the same ought to be quashed, in view of the law laid down in case of **State of Haryana vs. Bhajan Lal.** The Gauhati High Court dismissed the petition for quashing which has given rise to the appeal filed by Chandra Mohan Badaya whereas Rajasthan

High Court quashed the proceedings which has given rise to the appeals filed by the State of Arunachal Pradesh.

6. Before entering into the arguments advanced by the parties, we may briefly refer to the contents of the complaint being FIR No.227 of 2017. According to the complaint, Rajesh Natani and Chandra Mohan Badaya contacted the complainant firm requesting for amount of Rs.1 Crore for consideration /exchange of land/building situated between Plot No.A-47 to A55, Sikar House, near Chandpole, Jaipur, Rajasthan. The said amount was deposited in four instalments on 19.07.2016, 20.07.2016, 22.07.2016 and 25.07.2016 in the accounts of Shri Ram Enterprises, A.R. Properties and Colonisers, Shashi Natani w/o Rajesh Natani and Chandra Mohan Badaya, as full payment for the sale of the aforesaid land/building. Thereafter, when the complainant visited the place of land/building, the accused persons refused to hand over the same. As such, it was clear that the accused persons had cheated resulting into suffering, mental agony, and financial loss. The accused persons failed to fulfil the above conditions of transferring the land. All the accused persons have conspired to cheat/commit fraud with the applicant. All the accused persons have earned huge amount through unlawful means and instead of fulfilling their promises, they threatened the complainant with consequences. Finding no other alternative, the FIR had been lodged for taking appropriate action against the accused persons.

7. The FIR mentions the address of the complainant Mr. Anil Agrawal to be the address of the firm M/s Shiv Bhandar in Pasighat, East Siang District, Arunachal Pradesh. The residential address of the complainant Anil Agrawal is not given in the FIR. The address of all the six accused named in the FIR is that of Jaipur City, Rajasthan. The property for which the alleged payment of Rs.1 Crore is said to have been made is also situate in Jaipur, Rajasthan. The transaction of bank details is not mentioned in the FIR.

8. Apart from the fact that the complainant is said to be placed at Arunachal Pradesh, no other fact relevant to the alleged offence is said to be in or within the State of Arunachal Pradesh but still the FIR had been registered there. Clearly, the reason for lodging the FIR was that the accused persons were

not willing to execute the sale deed for which they had taken the sale consideration of Rs.1 Crore.

9. The Gauhati High Court dismissed the petitions for quashing on the finding that no exceptional circumstances exist calling for quashing of the proceedings. Whereas, the Rajasthan High Court proceeded to quash the proceedings on the ground that no part of the cause of action had arisen in the State of Arunachal Pradesh rather entire cause of action was in the state of Rajasthan, hence, the Police/Court in Arunachal Pradesh lacked territorial jurisdiction to entertain the FIR and all subsequent proceedings.

10. Surprisingly, the complainant M/s Shiv Bhandar has not come forward to challenge the order of the Rajasthan High Court. It is the State of Arunachal Pradesh which has challenged the order of the Rajasthan High Court.

11. We have heard learned counsel for the parties and perused the material on record in both the cases. 12. We are of the view that the matter was purely civil in nature. It was a case of money advancing for which no written document was executed to indicate its purpose or import as such whether it was a loan advance or an advance payment for transfer of property being land/building situate in Jaipur, is not borne out from any records. Such claim of the complainant that it was for transfer of property for land/building prescribed above, would be a matter of evidence to be led and established in the Court of law rather than the police investigating the same and finding out. It is not the case of complainant as stated in FIR that the plot/land as alleged by them which was to be transferred to them did not exist or had been sold or transferred to somebody else and therefore, there was an element of cheating by the accused persons. If the accused persons were not transferring the land and if the complainant could establish an agreement/contract with respect to the same in a Court of law, it ought to have filed a civil suit for appropriate relief. Appellant Chandra Mohan Badaya had already explained as to how he had already repaid Rs.37 lacs through bank transaction and also transferred two properties worth more than Rupees One Crore. All these aspects could be thrashed out before a competent Civil Court. It could not be said to be a case of cheating.

13. A simple reading of the FIR itself does not disclose any cognizable offence for which the FIR should be registered and maintained. Although Chandra Mohan Badaya appellant has sought to explain that he had already returned Rs.37 lakhs by bank transfer to the complainant and had further executed two transfer deeds in favour of the wife and sister-in-law of Anil

Agrawal, the power of attorney holder which valued at total amount of more than Rs.1.45 Crores. Even if we do not accept this contention as the same would be subject matter of evidence, what we find is that the complaint lodged by the respondent No.2 was not worth being registered as a complaint and that too in the State of Arunachal Pradesh.

14. The High Court of Rajasthan had rightly found as a matter of fact considering all aspects of the matter that the offence, if any, although according to us, no offence is made out, would be within the territorial jurisdiction of Rajasthan and not Arunachal Pradesh.

15. The State of Arunachal Pradesh ought to have been happy getting rid of an unnecessary Criminal Case being registered and tried in Arunachal Pradesh Why the State of Arunachal Pradesh has approached this Court is also a question to be answered by the said State when the complainant in a matter relating to civil/commercial dispute is not coming forward to defend its FIR which has been quashed by the Rajasthan High Court. Normally, in a given case where issue is of territorial jurisdiction we could have directed to transfer the investigation or the trial to the State where the cause of action would lie but in the present case, we find that no offence as such is made out.

16. We are conscious of the fact that Pawan Agarwal, one of the Respondents herein in Criminal Appeal arising out of SLP No. 8663-8665/2023, had earlier filed Criminal Petition No. 110/2021 under section 482 of Code of Criminal Procedure, 1973. before the Gauhati High Court and the said petition was dismissed vide order dated 26.11.2021. We are also conscious of the fact that SLP (Crl.) No. 999/2022 filed by him was dismissed as not pressed before this Court. However, today we are quashing the entire FIR Case No. 227/2017 registered at Police Station Pasi Ghat, District Siang East, Arunachal Pradesh and the consequential proceedings thereto. Rajasthan High Court, in the subsequent petition moved by Pawan Agarwal, has after noticing the proceedings initiated in Gauhati High Court has given relief to Pawan Agarwal and other respondents on the ground that no cause of action arose in Arunachal Pradesh. It is also important to note that after the Gauhati High Court had dismissed the Criminal Petition No. 110/2021 chargesheet was filed and we have considered the same. We have found the dispute to be of a civil nature and have quashed the FIR Case No. 227/2017. Hence, in exercise of the power under Article 136 of the Constitution of India we are not inclined to disturb the findings in favour of Pawan Agarwal in SB Criminal Writ Petition No. 989/2022 by Rajasthan High Court. Once

proceedings are being quashed against all the other accused named in the FIR and in the chargesheet and considering the nature of findings we have recorded, proceedings against Pawan Agarwal cannot alone continue.

17. We accordingly set aside the order of the Gauhati High Court and allow the appeal of Chandra Mohan Badaya and quash the entire proceedings arising out of FIR No.227 of 2017. We further dismiss the three appeals filed by the State of Arunachal Pradesh.