

Veerappaneni Ravikanth Vs The State of A.P. and Others

Court: Andhra Pradesh High Court

Date of Decision: July 10, 2012

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 167, 186, 186(b), 190, 482
Penal Code, 1860 (IPC) â€” Section 120B, 420, 467, 469

Citation: (2012) 2 ALD(Cri) 260 : (2012) 3 ALT(Cri) 144

Hon'ble Judges: Samudrala Govindarajulu, J

Bench: Single Bench

Advocate: P. Srinivas Kapatia, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Samudrala Govindarajulu

1. The petitioner is accused of offences punishable under Sections 420 and 467 IPC in Cr. No. 144 of 2011 of C.I.D. Police Station, Hyderabad.

The said case is being investigated by Regional Crime Investigation Unit of Rajahmundry of C.I.D. The accused is stated to have opened a current

account in the name of J.S.W. Steels using a forged document at Andhra Bank, Sirigindalapadu Branch, Rampachodavaram Mandal, East

Godavari District. The said current account was opened in the name of J.S.W. Steel Limited. The petitioner is also stated to have received 3.11

crores from Bhavin Steels, Mumbai through RTGS into that account and later transferred some amount to other banks at Chennai and withdrew

some amount. Ultimately Andhra Bank received letter from JSW Steel Limited, Mumbai stating that they have not authorized anybody to open

current account and that authorization letter produced for opening the account is a forged letter. On the report given by Manager of Andhra Bank,

Sirigindalapadu Branch, the case was registered by C.I.D., Hyderabad. While so, Director of Bhavin Steel Private Limited, Mumbai gave report

to the Senior Inspector of Police, Borivali Police Station, Mumbai alleging offences punishable under Sections 120B, 420, 467, 469 and 471 IPC

on the ground that they were cheated to the extent of Rs. 3,11,85,050/- by RTGS transfer into the account of JSW Steel Limited with Andhra

Bank in Andhra Pradesh. On the basis of that report, case in Cr. No. 489 of 2011 was registered in Borivali Police Station of Mumbai.

2. The petitioner filed this petition u/s 186(b) read with Section 482 Cr.P.C. for direction to XXVI Metropolitan Magistrate, Mumbai at Borivali to

transfer Cr. No. 489 of 2011 dated 21.11.2011 to Borivali (West) Police Station, Mumbai to C.I.D, RCIU, Rajahmundry, East Godavari District

by confirming the jurisdiction. In my opinion, this criminal petition is misconceived as the stage is not reached to invoke Section 186 Cr.P.C.

herein. For valid disposal of this petition, a glance to Section 186 Cr.P.C. becomes essential. It reads as follows:

High Court to decide, in case of doubt, district where inquiry or trial shall take place:- Where two or more Courts have taken cognizance of the

same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided-

a) if the Courts are subordinate to the same High Court, by that High Court;

b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the

proceedings were first commenced,

and thereupon all other proceedings in respect of that offence shall be discontinued.

3. Initial words of the above provision indicate that in order to apply that provision, there must have been cognizance of the same offence should

have been taken by two or more courts. Then only a High Court can enter upon to decide the District where enquiry or trial should take place.

Admittedly, the case in East Godavari District of this State, as well as the case in Mumbai are pending investigation and they are pending in the

respective police stations only and did not reach the Courts either in Andhra Pradesh or in Mumbai for enquiry or trial. Therefore, primarily the

petitioner cannot invoke Section 186 Cr.P.C. for relief in this Court.

4. Ashutosh nag v State 1978(2) Laws (Cal), 49, State of West Bengal v Tarique Akhtar 2006(7) Laws (Cal) 54 of the Calcutta High Court,

Kuljit Singh Jitu v Central Bureau of Investigation 2000(5) Laws (DLH) 2 of the Delhi High Court and Meera Gupta v Kanchan Gupta (1990) 3

Crimes (HC) 151 of the Allahabad High Court relied upon by the petitioner's counsel relate to transfer of cases pending in the respective Courts

(and not in the respective police stations) by applying Section 186(b) Cr.P.C. They may not help the petitioner's contention in this criminal petition.

5. It is contended by the petitioner's counsel that taking cognizance of the case by Court does not mean taking the case on file or issue of process

by the Court and that it is sufficient if the Magistrate applies his mind to the facts of the case at any stage. The petitioner's counsel placed reliance

on CREF Finance Ltd. Vs. Shree Shanthi Homes Pvt. Ltd. and Another, in this regard. The Supreme Court therein was considering steps relating

to taking cognizance of the case during the process of taking cognizance u/s 190 Cr.P.C. For a case to reach the stage of taking cognizance of the

offences therein by a Magistrate u/s 190 Cr.P.C. arises on any of the following three instances:

- a) upon receiving a complaint of facts which constitute such offence;
- b) upon a police report of such facts;
- c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

6. None of the contingencies under either Clause (a) or Clause (b) or Clause (c) exists in the present case. Simply because the II Additional

Judicial Magistrate of the First Class, Kakinada which is a designated Court for C.I.D. cases in East Godavari District entertained remand report

of the Investigating Officer when the accused was produced before the Magistrate after his arrest, it cannot be contended that since the Magistrate

had applied his/her mind to facts of that case and ordered remand of the accused to judicial custody, it should be deemed that the Magistrate has

taken cognizance of the offences herein. Noting facts relating to the case and about the accused at the time of remand u/s 167 Cr.P.C. cannot

tantamount to taking cognizance of the offences mentioned therein against the accused u/s 190 Cr.P.C. Therefore, primary requirement for

invoking Section 186 Cr.P.C. is absent in this case, in the sense that there was no taking cognizance of the offences against the accused by any

Court or Magistrate for the purpose of enquiry or trial. When both the cases at C.I.D. RCIU, Rajahmundry and at Borivali (West) Police Station,

Mumbai are pending investigation, Section 186(b) Cr.P.C. cannot applied herein. Consequently, the Criminal Petition is dismissed.