

JURISDICTION OF HON'BLE HIGH COURT IN CRIMINAL MATTERS

The cardinal legislation governing the jurisdictional question is the Code of Criminal Procedure, 1973 wherein under Chapter – XIII defines the jurisdiction vis-à-vis the criminal subject matter. The provisions provides complete list of 'cause of action' for establishing the jurisdiction of the Hon'ble High Court. The Hon'ble Supreme Court in ***Kaushik Chatterjee v. State of Haryana***¹, has summarised the territorial jurisdiction of a court to adjudicate the matter as:

"21. The principles laid down in Sections 177 to 184 of the Code (contained in Chapter XIII) regarding the jurisdiction of criminal Courts in inquiries and trials can be summarized in simple terms as follows:

- (1) Every offence should ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. This rule is found in Section 177. The expression "local jurisdiction" found in Section 177 is defined in Section 2(j) to mean "in relation to a Court or Magistrate, the local area within which the Court or Magistrate may exercise all or any of its or his powers under the Code"*
- (2) In case of uncertainty about the place in which, among the several local areas, an offence was committed, the Court having jurisdiction over any of such local areas may inquire into or try such an offence.*
- (3) Where an offence is committed partly in one area and partly in another, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*
- (4) In the case of a continuing offence which is committed in more local areas than one, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*
- (5) Where an offence 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. (Numbers 2 to 5 are traceable to Section 178)*
- (6) Where something is an offence by reason of the act done, as well as the consequence that ensued, then the offence may be inquired into or tried by a Court within whose local jurisdiction either the act was done or the consequence ensued. (Section 179)*
- (7) In cases where an act is an offence, by reason of its relation to any other act which is also an offence, then the first mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either of the acts was done. (Section 180)*
- (8) In certain cases such as dacoity, dacoity with murder, escaping from custody etc., the offence may be inquired into and tried by a Court within*

¹ (2020) 10 SCC 92.

whose local jurisdiction either the offence was committed or the accused person was found.

- (9) In the case of an offence of kidnapping or abduction, it may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or conveyed or concealed or detained.*
- (10) The offences of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction, the offence was committed or the stolen property was possessed, received or retained.*
- (11) An offence of criminal misappropriation or criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property was received or retained or was required to be returned or accounted for by the accused person.*
- (12) An offence which includes the possession of stolen property, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person, having knowledge that it is stolen property. (Nos. 8 to 12 are found in Section 181)*
- (13) An offence which includes cheating, if committed by means of letters or telecommunication messages, may be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or received.*
- (14) An offence of cheating and dishonestly inducing delivery of the property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.*
- (15) Some offences relating to marriage such as Section 494, IPC (marrying again during the life time of husband or wife) and Section 495, IPC (committing the offence under Section 494 with concealment of former marriage) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with the spouse by the first marriage. (Nos. 13 to 15 are found in Section 182)*
- (16) An offence committed in the course of a journey or voyage may be inquired into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage. (Section 183).*
- (17) Cases falling under Section 219 (three offences of the same kind committed within a space of twelve months whether in respect of the same person or not), cases falling under Section 220 (commission of more offences than one, in one series of acts committed together as to form the same transaction) and cases falling under Section 221, (where it is doubtful what offences have been committed), may be inquired into or tried by any Court competent to inquire into or try any of the offences. (Section 184).*

Additionally, Section 2(e) of the Code, 1973, defines “High Court” as:

“(e) “High Court” means,-

- (i) in relation to any State, the High Court for that State;
- (ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;
- (iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;”

In pursuance of the above law as stated in the statute as well as by the Hon’ble Supreme Court, it is abundantly clear that the Hon’ble High Court is having power to adjudicate all the criminal matters pertaining to the jurisdiction including under Section 482 of Code of Criminal Procedure, 1973. However, the vital question arises whether a Hon’ble High Court is competent to adjudicate on the FIR/complaints registered in another state under the inherent power vested by virtue of Section 482 of Code, 1973. The Hon’ble Supreme Court in *Navinchandra N. Majithia v. State of Maharashtra*², was pleased to observe in paragraph 43 as under:

“43. We make it clear that the mere fact that FIR was registered in a particular State is not the sole criterion to decide that no cause of action has arisen even partly within the territorial limits of jurisdiction of another State. Nor are we to be understood that any person can create a fake cause of action or even concoct one by simply jutting into the territorial limits of another State or by making a sojourn or even a permanent residence therein. The place of residence of the person moving a High Court is not the criterion to determine the contours of the cause of action in that particular writ petition. The High Court before which the writ petition is filed must ascertain whether any part of the cause of action has arisen within the territorial limits of its jurisdiction. It depends upon the facts in each case.”

Therefore, the reading the statute along with the judicial decisions highlights that the jurisdiction of Hon’ble High Court is not restricted to the place of registration of the report under Section 154/155 of the Code 1973. However, it depends on the ‘cause of action’ defined and explained by the Hon’ble Supreme Court in the case of *Om Prakash*

² (2000) 7 SCC 640

*Srivastava v. Union of India*³ and *Oil and Natural Gas Commission v. Utpal Kumar Basu*⁴, and also state that if a part of cause of action arisen within its jurisdictional limit.

In the case of *Manish Maheswari v. State of Uttar Pradesh*⁵, the petitioner preferred a writ petition before the Hon'ble High Court of Karnataka, Bengaluru Bench, for quashing of notice issued under Section 41-A of Code 1973 by the Uttar Pradesh Police. The Hon'ble Court allowed the petition and quashed the notice, while observing in paragraph 50 as under:-

"50. Thus, from the above, it can be gathered that it is the duty of the Constitutional Courts to act and protect against any assault on the fundamental right of a citizen and the Constitutional Courts cannot be shackled in the light of Article 226 (2) of the Constitution of India. In the light of the above rulings and in the facts and circumstances of this case, it is held that the writ petition by the petitioner, who is not an accused and his liberties not being governed by the Code of Criminal Procedure and in the light of the fact that issuance of Section 41A of Cr.P.C Notice being vitiated by malafides and being one without jurisdiction, the writ petition is held to be maintainable. The points for consideration are answered accordingly."

In light of the above stated law and legal precedents, it is clear enough that the Hon'ble High Court is empowered to adjudicate matter pertaining to not only complaints filed under Section 154/155 of Code, 1973 within its territorial jurisdiction but also decide matters if the part of cause of action has arisen within the jurisdictional territory. Thereby, the Hon'ble High Court may exercise its inherent powers to safeguard and protect the fundamental and legal rights of an aggrieved person.

■ **TEAM MAJESTY LEGAL**⁶

CHAMBER : 204, E-Block, Rajasthan High Court, Jaipur.
OFFICE : C-89, 201, Jagraj Marg, Mangalam Apartment, Bapu Nagar, Jaipur
MOB : 8890077779; 9785461395
E-MAIL : majestylelegal9@gmail.com
WEBSITE : www.majestylelegal.in

³ (2006) 6 SCC 207

⁴ (1994) 4 SCC 711

⁵ Writ Petition No. 11028/2021

⁶ Majesty legal is law firm, established in 2013 and aim of the present article is to provide recent legal development. The opinions presented in the article are personal in nature and not to be deemed as legal advice.