

Court No. - 83

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 761 of 2023

Applicant :- Amit Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Vivek Kumar

Maheshwari, Dharendra Singh Patel

Counsel for Opposite Party :- G.A.

Hon'ble Surendra Singh-I,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. This transfer application has been filed for transfer of Complaint Case No. 2734/9 of 2021 (Amit Kumar Vs. Ashu Trading Company) executed u/s 138 of Negotiable Instruments Act pending in the court of Additional Court N.I. Act, Muzaffarnagar.

3. It has been submitted by learned counsel for the applicant that opposite party no. 2 had furnished a cheque of Rs.6,50,000/- drawn on Punjab National Bank, Branch- Naya Gaon, Dehradun, Uttarakhand in lieu of supply of bricks of that value. The applicant produced the aforesaid cheque on 01.02.2021 in his account no. 19132560000819 situated in HDFC Bank, Shamli. The cheque was dishonoured on the ground of insufficient funds in the account of drawer. The applicant has prayed that his complaint case pending in the court of Additional Court, Muzaffarnagar be transferred to the competent court at District- Shamli.

4. The provisions regarding registration of complaint u/s 138 Negotiable Instruments Act has been provided u/s 142 (a) of the Negotiable Instruments Act which is as follows :-

142. Cognizance of offences — *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) —*

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the

holder in due course of the cheque;

5. Thus, according to provisions of Section 142 (a) of the Negotiable Instruments Act, the complaint should have been instituted in the court where the petitioner presented the cheque for encashment at his bank account. Since the cheque was presented at HDFC Bank, Shamli and from there it was dishonoured, jurisdiction for the trial court of the complaint case lies with the competent court at District- Shamli.

6. The Complaint Case No. 2734/9 of 2021 (Amit Kumar Vs. Ashu Trading Company) pending in the court of Additional Court N.I. Act, Muzaffarnagar, is transferred to the court of Sessions Judge, Shamli who will send it to the competent court at Shamli which is the competent court to try the case u/s 138 Negotiable Instruments Act for disposal of the complaint case in accordance with law.

7. Accordingly, this application is disposed of.

Order Date :- 2.12.2023

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