

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Tr.P(Cr1.).No. 104 of 2014

AGAINST IN ST 2124/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, VAIKOM

PETITIONER/ACCUSED:

KALYANIKUTTY, AGED 51 YEARS,
W/O. SOMAN, KONTHURUTHIYIL, EROOR P.O,
THRIPUNITHURA - 682306

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENT/COMPLAINANT:

GENTLEMAN CHITT'S FUNDS COMPANY(INDIA) PRIVATE LIMITED,
HEAD OFFIE, ANAND BAZAR, 1ST FLOOR,
THALAYOLAPARAMBU P.O, RERPESENTED BY ITS MANAGER,
ANILKUMAR K.G, AGED 34 YEARS, S/O.GOPI,
THATTARUPARAMBIL VEETIL, EDAVOTTOM P.O,
THALAYOLAPRAMBU - 686605

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Tr.P(Crl.).No. 104 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: COPY OF THE COMPLAINT DATED 26.5.2014 NUMBERED AS S.T
NO.2124/2014 FILED BY THE RESPONDENT BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COURT, VAIKOM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Tr.P (CrI) No.104 of 2014

Dated this the 10th day of March, 2015

O R D E R

The petitioner herein is the accused in a prosecution brought under Section 138 of the Negotiable Instruments Act before the Judicial First Class Magistrate Court, Vaikom. He seeks transfer of the said case on the ground that the said Court has no territorial jurisdiction in view of the legal position recently settled by the Hon'ble Supreme Court. His case is that the question of jurisdiction was raised before the learned Magistrate, but the learned Magistrate has not taken any decision on the question of jurisdiction. Whether that Court has territorial jurisdiction or not, is in fact a matter to be looked into by that Court. The proper remedy in such a circumstance, if at all the court has jurisdiction, is not apply for transfer. The petitioner will have to make an application before the learned Magistrate to return the complaint on the ground of jurisdiction. If the learned Magistrate finds that the court has no jurisdiction it will definitely return the complaint for presentation before the

appropriate court. In case the petitioner's request is turned down, the petitioner can very well come before this Court and challenge the said order. This Court cannot now decide in this proceeding whether the Court at Vaikom has jurisdiction. The remedy is not transfer the case.

In the result, this Transfer Petition is dismissed without prejudice to the right of the petitioner to make application before the court below for returning the complaint on proper grounds.

**P.UBAID
JUDGE**

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