

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No.M-29813 of 2017 (O&M)
Date of Decision: November 13, 2017**

Gurinder Kaur

...Petitioner

VERSUS

Avinash Chander

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harinder Sharma, Advocate
for the petitioner.

Mr.Raman Singla, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 407 read with Section 482 Cr.P.C. against respondent Avinash Chander for transfer of criminal complaint bearing No.Nact./314/2017 instituted on 03.05.2017 filed by respondent under Section 138 of the Negotiable Instruments Act against the petitioner titled as 'Avinash Chander Kamra vs. Gurinder Kaur' pending in the Court of Chief Judicial Magistrate, Sangrur, to the court of competent jurisdiction at Patiala, where other similar complaint No.1753/2015 filed by the wife of the respondent against the petitioner titled as 'Darshna Devi vs. Gurinder Kaur' and criminal complaint No.1132/2017 filed by the respondent against the petitioner titled as 'Avinash Chander Kamra vs. Gurinder Kaur' under Section 138 of the

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner argued that qua same transaction between the parties and to pay same liability, two cheques have been issued by the accused. Qua one cheque, the complaint was filed at Patiala whereas regarding second cheque, it was presented at Sangrur and the complaint was filed at Sangrur.

Learned counsel for the respondent argued that respondent is ill and cannot go to Patiala. This argument of learned counsel for the respondent has no merit. As one of the complaint is pending at Patiala, therefore, respondent is to pursue that complaint at Patiala. If this complaint is also transferred to Patiala Sessions Division, there will be no difficulty. Otherwise also, parties are same and the transaction is also same and for discharging same liability, two cheques have been issued. Therefore, it is also necessary in the interest of justice that both the cases should be tried by one and the same Court to avoid conflicting judgments. Moreover, the Hon'ble Supreme Court in ***Damodar S. Prabhu vs. Sayed Babalal H., 2010 (2) RCR (Criminal) 851***, has held as under:-

“16. We are also in agreement with the Learned Attorney General's suggestions for controlling the filing of multiple complaints that are relatable to the same transaction. It was submitted that complaints are being increasingly filed in multiple jurisdictions in a vexatious manner which causes tremendous harassment and prejudice to the drawers of the cheque. For instance, in the same transaction pertaining to a loan taken on an installment basis to be repaid in equated monthly installments, several cheques are taken which are dated for each monthly installment and upon the dishonor of

each of such cheques, different complaints are being filed in different courts which may also have jurisdiction in relation to the complaint. In light of this submission, we direct that it should be mandatory for the complainant to disclose that no other complaint has been filed in any other court in respect of the same transaction. Such a disclosure should be made on a sworn affidavit which should accompany the complaint filed under Section 200 of the Criminal Procedure Code. If it is found that such multiple complaints have been filed, orders for transfer of the complaint to the first court should be given, generally speaking, by the High Court after imposing heavy costs on the complainant for resorting to such a practice. These directions should be given effect prospectively.”

Keeping in view the law laid down by the Hon'ble Supreme Court and also for convenience of both the parties, the criminal complaint bearing No.Nact./314/2017 instituted on 03.05.2017 under Section 138 of the Negotiable Instruments Act titled as 'Avinash Chander Kamra vs. Gurinder Kaur' which is pending before learned CJM, Sangrur is transferred to Sessions Division, Patiala. Learned CJM, Sangrur is directed to send the record of above-said complaint to learned Sessions Judge, Patiala, who will entrust that complaint to the same Court where other complaint between the same parties is already pending. The parties are directed to appear before learned Sessions Judge, Patiala, on 04.12.2017.

Therefore, finding merit in the present petition, the same stands allowed accordingly.

November 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No