

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7271-2019 (O&M)
Date of Decision:-27.2.2019

Ashish Tyagi ... Petitioner

Versus

Rajiv Kumar ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. S.K. Jain, Advocate for the petitioner.

Mr. Ankur Tyagi, Advocate for the respondent.

GURVINDER SINGH GILL, J.(Oral)

The petitioner Ashish Tyagi - accused has approached this Court seeking transfer of criminal complaint No.132 dated 16.9.2015 pending in the Court of JMIC, Ganaur, District Sonipat on the ground that the respondent/complainant Rajiv Kumar is a practicing Advocate at Ganaur.

Notice of motion had been issued. The aforestated position regarding the respondent/complainant, being an advocate, is not disputed by learned counsel for the respondent/complainant.

The learned counsel for the petitioner has submitted that the petitioner is having a tough time defending himself in Ganaur and had to change his counsel twice as no senior counsel is willing to appear on his behalf since the complainant himself happens to be an Advocate.

The learned counsel for the respondent/complainant has however, submitted that it is too late in the day to make a request for transfer of the case inasmuch as the matter is now fixed for defence evidence and in fact the zimini orders would show that the petitioner/accused has himself been resorting to dilatory tactics. It has further been submitted

that the complainant, being a professional, it would be difficult for him to travel to some other district, in case the matter is transferred to some other district.

I have considered the rival submissions addressed before this Court.

Having regard to the facts and circumstances of the case and in order to ensure that the petitioner/accused is able to defend his case effectively by a counsel of his choice, the petition is accepted and the complaint bearing No.132 dated 16.9.2015 pending in the Court of JMIC, Ganaur, District Sonipat is transferred from Ganaur to District Panipat, which is a neighbouring district.

The record of the complaint be sent immediately from the Court at Ganaur to the Court of the Chief Judicial Magistrate, Panipat for conducting further proceedings in the matter. Keeping in view the fact that the matter has been pending since the year 2015, it is directed that the trial Court shall take effective steps so as to ensure that the trial is concluded expeditiously. It is further directed that in case any application is moved on behalf of the complainant seeking personal exemption, the same be considered sympathetically in accordance with law.

The parties are directed to appear before the Court of Chief Judicial Magistrate at Panipat on 14.3.2019, who may either conduct the proceedings himself or entrust the matter to any other Court competent to try complaint under Section 138 of Negotiable Instruments Act.

27.2.2019

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Whether reasoned/speaking
Whether reportable

(Gurvinder Singh Gill)
Judge

Yes / No
Yes / No