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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on 12.12.2019

TR.P.(CRL.) 42/2019 & CRL.M.A. 12264/2019

SATISH GUPTA

..... Petitioner

Through Ms. Rebecca M.John., Sr.
Advocate with Mr. Joseph
Poukkatt, Mr. Kushdeep Gaur,
Mr. Nikhil Ahuja,
Ms.M.Pathak, and Ms. Megha
Bahl, Advocates.

versus

THE STATE

..... Respondents

Through Mr. G.M.Farooqui, Ld. APP for
the State.
Mr. Gautam Dhamija and Mr.
Abinash Jha, Advocates for
Respondent no. 2.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.(Oral)

1. This is a petition filed under Section 407 Cr.P.C. read with Section 482 Cr.P.C. seeking transfer of Complaint Case no. 9949/2018 and Complaint Case no. 12969/2018, both under Section 138 Negotiable Instrument Act 1881 titled as “Satish Gupta vs. Rathish Babu Unnikrishnan” pending in the Court of Ld. Metropolitan Magistrate, Saket Court, South East District to

the Court of Ld. Metropolitan Magistrate-01 (N.I.Act), West District, Tis Hazari Courts, Delhi where Complaint Case no. 3321/2018 under Section 138 Negotiable Instrument Act 1881 is pending disposal.

2. It is submitted by Ld. Counsel for the petitioner that firstly complaint case bearing no. 3321/2018 was filed in Tis Hazari Courts wherein notice under Section 251 Cr.P.C. has been framed. Subsequently, another two compliant cases i.e. complaint case bearing no. 9949/2018 and complaint case no. 12969/2018, were filed in Saket Court in which cognizance has not been taken since the petitioner has sought transfer of both the cases to the court of Ld. MM-01(N.I.Act), West District, Tis Hazari Courts, Delhi. It is further submitted that in complaint case no. 9949/2018, Ld. Trial Court was informed that a similar case qua the same parties is pending before the Ld. MM, Tis Hazari Courts. The court was requested that in view of Section 142A of the N.I.Act, the said complaint case be transferred to the court of Ld. MM at Tis Hazari. It was however observed by Ld. MM, Tis Hazari Courts vide order dated 02.04.2019, that the

court does not have the jurisdiction to transfer the complaint case to Tis Hazari Court under Section 142(A) (3) of N.I.Act. It was observed by the Ld. M.M. that at best he could have returned the present complaint case to the complainant with liberty to file the same before the court of appropriate jurisdiction as per law. However, no such prayer was made and, therefore, the application was dismissed.

3. Ld. Counsel for the petitioner has approached this court under section 407 read with Section 482 Cr.P.C. seeking transfer of above mentioned both the complaint cases pending in Saket Courts to Tis Hazari Court where the complaint case no. 3321/2018 is pending.

4. Ld. Counsel for respondent no.2 has opposed the petition and submitted that the both the cases pending in Saket Court cannot be transferred under Section 407(C) Cr.P.C., and under Section 482 Cr.P.C. as well. Ld. Counsel submitted that the only recourse left to the petitioner is to approach the Ld. MM under Section 201 Cr.P.C. for return of the complaint for presentation to the proper court.

5. I have considered the rival submissions. As informed by Ld. Counsel for the petitioner, respondent no. 2 has not yet been summoned in these cases. In the complaint cases bearing no. 3321/2018, pending in the Tis Hazari Courts, notice under Section 251 Cr.P.C. has been framed whereas in another two cases pending in Saket Courts, no steps have been taken by the complainant for the reason that in those cases request was made to Ld. MM for transfer of the case. Since the transaction regarding which the cheques have been issued is same and the complainant as well as the alleged accused are also same, no useful purpose will be served by directing the petitioner to resort to Section 201 Cr.P.C. at this stage when the ultimate purpose is to have the trial of the cases at one place. Thus, this is a fit case where this court should exercise its power and order for transfer of the complaint cases bearing no. 9949/2018 and 12969/2018 from the court of Ld. MM, Saket Courts, to the court of Ld. MM, Tis Hazari Courts, West District where the complaint case bearing no. 3321/2018 is pending.

6. Ordered accordingly.

7. It is submitted that next date before the Ld. MM, West District, Tis Hazari courts is 07.02.2020. Let both the compliant cases bearing no. 9949/2018 and 12969/2018 be transferred to learned MM, Tis Hazari Courts, West District for 07.02.2020 where the complaint case bearing no. 3321/2018 is pending.
8. Petition along with pending application is, therefore allowed and disposed of accordingly.

BRIJESH SETHI, J

DECEMBER 12, 2019

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