

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(122)

CRM-M-41366-2021

DATE OF DECISION: 05.10.2021

KAMAL BATRA

...PETITIONER

VERSUS

MANMOHAN KUMAR KHURANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. M.S. Kathuria, Advocate
for the petitioner.

SUVIR SEHGAL, J. (Oral)

This order shall dispose of **CRM-M-41366-2021** titled as “**Kamal Batra versus Manmohan Kumar Khurana**” and **CRM-M-41597-2021** titled as “**Kamal Batra versus Alka Khurana**” as they involve common questions of fact and law. For the sake of convenience, facts are being taken from CRM-M-41366-2021.

Instant petition has been filed under Section 407 of the Code of Criminal Procedure, 1973 read with Section 482 Cr.P.C. for transfer of Criminal Complaint NACT No.53 of 2021, Annexure P-4, titled as “Manmohan Kumar Khurana versus Kamal Batra” pending in the Court of JMIC, Hisar from the Courts at Hisar to some other Court of competent jurisdiction outside the District.

Facts, in brief, are that the petitioner took a loan from the respondent and his wife in March, 2017 and they made the petitioner sign on some blank papers and five blank signed cheques were kept as security. Petitioner re-paid the entire loan amount, but by misusing the cheques, the respondent and his wife got a complaint instituted through their acquaintance, Satish Aneja, under Section 138 of the Negotiable Instruments Act, 1881 (for short "N.I. Act") at Chandigarh, which was compromised. However, despite the settlement, cheques were presented for encashment with a bank at Hisar and on dishonor on account of insufficient funds, the present complaint has been filed before the JMIC, Hisar.

Counsel for the petitioner has contended that the blank signed cheques were not meant for repayment of the loan amount, but were given as security and the present complaint has been presented at Hisar with a malafide intention to harass the petitioner and extract more money from him. Counsel submits that a civil suit, Annexure P-5, has been filed by the petitioner at Kurukshetra against the respondent and his wife for a decree of permanent injunction restraining them from misusing the said cheques and documents. It is his argument that the complaint being malafide deserves to be transferred from Hisar.

Having considered the argument of the counsel for the petitioner, this Court is of the view that there is no merit in the petition. It is an admitted position that the cheques bear the signature of the petitioner and as to whether they were meant for discharge of a legally enforceable debt or as a security, will be determined by the trial Court, if raised, in due course. In his

complaint, the complainant-respondent has shown himself to be a resident of Hisar besides S.A.S. Nagar and has alleged that he presented the cheques in his bank account maintained with the J&K Bank, Red Square Market Branch, Hisar, which was dishonored. The Court at Hisar, therefore, has the territorial jurisdiction to try the complaint.

Power to transfer a case under Section 407, Cr.P.C. cannot be exercised in a casual manner on the mere asking of an accused. Mere fact that the complaint is alleged to be malafide cannot be a ground for its transfer.

Petition being devoid of any merit is ordered to be dismissed with no order as to costs.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the complaint, which shall be decided by the trial Court uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

05.10.2021
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No