

THE HONOURABLE SRI JUSTICE K.SURENDER
TRANSFER CRIMINAL PETITION No.11 OF 2022

ORDER:

This Petition is filed to withdraw C.C.No.2298 of 2021 from the file of the Principal Junior Civil Judge-cum- XIV Additional Metropolitan Magistrate, Cyberabad at Rajendranagar and transfer the same to the VIII Metropolitan Magistrate Court at Manoranjan Complex, Hyderabad.

2. The petitioners are accused in 21 cases filed by the 2nd respondent – *de facto* complainant registered for the offence under Section 138 of the Negotiable Instruments Act.

3. Learned counsel for the petitioners Sri Apurva M.Gokhale submits that subsequent to establishment of Metropolitan Magistrate Courts at Manoranjan Complex, all pending cases registered for the offence under Section 138 of the Negotiable Instruments Act are being transferred to the newly-established Metropolitan Magistrate Courts. It is submitted that in that process, all the cases pending on the file of the II Additional Judicial Chief Metropolitan Magistrate, Nampally, Hyderabad are now being transferred to the Court of the VIII Metropolitan Magistrate, Manoranjan Complex. He submits that between the same parties, as of now, 20 cases were transferred to the

Courts at Manoranjan Complex. He submits that only this case is pending at Rajendra Nagar Court. It is submitted that after the new Courts are established, the petitioners filed I.A.No. 1 of 2022 to amend the prayer. Learned counsel for the petitioners submits that the petitioners have taken out notice to the respondent – *de facto* complainant as per the address furnished in the complaint and the same was returned with an endorsement “addressee left”. He submits that it amounts to deemed service and he also filed the acknowledgment in support of the same.

4. Section 142 of the Negotiable Instruments Act as amended, reads as under:

"142. Cognizance of offences- [(1)] Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

[Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period;]

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.].

(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the

payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.]

5. Taking into consideration the fact that there are about 21 cases between the parties and already 20 cases are pending on the file of the VIII Metropolitan Magistrate, Manoranjan Complex and as this case is pending on the file the Principal Junior Civil Judge-cum-XIV Additional Metropolitan Magistrate, Rajender Nagar and as per the amended provision Section 142 of N.I. Act and taking into consideration the convenience of the parties, this Court deems it appropriate to withdraw C.C.No.2298 of 2021 from the file of the Principal Junior Civil Judge-cum-XIV Additional Metropolitan Magistrate, Cyberabad at Rajender Nagar to the file of the VIII Metropolitan Magistrate, Manoranjan Complex, Hyderabad.

6. The Transfer Criminal Petition is accordingly, allowed.
There shall be no order as to costs.

7. The miscellaneous Applications, if any shall stand closed.

K.SURENDER, J

Date: 01.07.2022
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