

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

CRM-M-40473-2017 (O&M)
Date of Decision:- 18.1.2023

M/s Karan K Fabrics and another ... Petitioners

Versus

Tata Capital Financial Services Ltd. ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Namit Gautam, Advocate, for the petitioner.

Mr. Amrinder Vir Singh, Advocate, for the respondent.

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GURVINDER SINGH GILL, J. (Oral)

1. The petitioner/accused has approached this Court seeking transfer of criminal complaint i.e. COMA No.27 of 2017, dated 03.01.2017, under Section 138 of Negotiable Instruments Act titled as Tata Capital Financial Services Ltd. Vs. M/s Karan K Fabrics, pending in the Court of learned Judicial Magistrate 1st Class, Patiala.
2. Notice of motion was issued on 30.10.2017 and Mr. Amrinder Vir Singh, Advocate has put in appearance on behalf of the respondent/complainant.
3. Learned counsel for the petitioner has submitted that the cheque in question, was a part of a series of cheques which had been issued by the accused to the complainant at the time of raising a loan from the

complainant-firm. It has been submitted that the accused had paid 12 out of 36 installments, but on account of some financial crunch, there was some default on his part and some cheques were dishonoured. It has been submitted that while some complaints in respect of the dishonoured cheques have been instituted in District Courts at Ludhiana, 2 complaints have somehow been instituted in District Courts at Patiala. Learned counsel has submitted that since the Branch office of the respondent/complainant is situated at Ludhiana and even the petitioner is a resident of Ludhiana, the instant complaint may also be transferred to District Courts at Ludhiana, as it will rather be convenient to both the parties.

4. Opposing the petition, learned counsel representing the respondent-complainant has submitted that as per the provisions of Section 142 of Negotiable Instruments Act, the complaint is required to be instituted at the place where the dishonoured cheque is presented and that since, in the present case the cheque had been presented at Patiala, it is the Courts at Patiala which has the jurisdiction. Learned counsel has however, not denied the fact that all the cheques were issued as a part of the same transaction and that some of the complaints in respect of dishonoured cheques are indeed pending at District Courts at Ludhiana.
5. This Court has considered the rival submissions.
6. In view of the aforestated position, this Court does find that the present cheque was amongst a number of cheques which had been issued by the complainant towards installments at the time of raising

a loan and that while some of the complaints in respect of dishonour of cheques are pending at Ludhiana, the instant complaint is pending at Patiala.

7. Having regard to the fact that other complaints arising out of the same transaction are pending at Ludhiana and even the Branch Office of the respondent/complainant is stated to be at Ludhiana, the instant petition is accepted and criminal complaint i.e. COMA No.27 of 2017, dated 03.01.2017, under Section 138 of Negotiable Instruments Act titled as Tata Capital Financial Services Ltd. Vs. M/s Karan K Fabrics, pending in the Court of learned Judicial Magistrate 1st Class, Patiala, is ordered to be transferred from Patiala to the Court having jurisdiction to entertain the complaint.
8. The Chief Judicial Magistrate, concerned shall ensure that the record complete in all respects, duly indexed, is transmitted to Chief Judicial Magistrate, Ludhiana, who shall entrust the complaint to the Court having jurisdiction to try this complaint.
9. It is clarified that the proceedings of the complaint shall continue at Ludhiana from the stage at which the proceedings are, at the moment in Patiala.

18.1.2023
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(GURVINDER SINGH GILL)
JUDGE

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