

131

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38375-2023 (O&M)

Date of decision: August 07, 2023

Som Nath

....Petitioner

versus

Gurmej Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Rahul Bhargava, Advocate,
Mr. Kashav Chadha, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for transferring proceedings of the complaint under Section 138 of the Negotiable Instruments Act, 1881 filed by petitioner/ complainant in case titled as "Som Nath versus Gurmej Kaur" bearing NACT No.302 of 2019 dated 26.09.2019 (Annexure P-1) before learned Judicial Magistrate 1stClass, Phillaur, District Jalandhar to a Court of competent jurisdiction at Phagwara, District Kapurthala.

2. Learned counsel for the petitioner submits that a complaint case instituted by the petitioner under Section 138 of NI Act before the Court of learned Judicial Magistrate 1st Class, Phillaur, District Jalandhar against respondent-accused is pending, regarding respondent's failing to discharge her duty to return amount of Rs.2,30,000/- borrowed from the petitioner. Respondent had issued a cheque dated 03.08.2019 amounting to Rs.2,30,000/- drawn on Kotak Mahindra Bank, Branch Apra, Tehsil Phillaur, which the petitioner presented in the State Bank of India, Branch Phagwara, on 03.08.2019, but the same got dishonored with remarks "Insufficient Funds".

2.1. Learned counsel contends that there are chances that respondent may seek benefit of territorial jurisdiction of the trial which is presently proceeding before learned Judicial Magistrate 1st Class, Phillaur, District Jalandhar on the ground that per Section 142(2) of the NI Act, same is liable to be tried before a Court of competent jurisdiction at Phagwara in District Kapurthala.

3. Given the nature of order being passed, there is no necessity to issue notice to respondent, as no serious prejudice would be caused to her. Notice to respondent is thus dispensed with.
4. Heard.
5. Petition has been filed on the apprehension that at some subsequent stage, respondent may take an objection *qua* territorial jurisdiction. However, it transpires that till date, no such objection has been taken either by respondent after having caused appearance. It also transpires that both complainant and the respondent are residing at Tehsil Phillaur, District Jalandhar where complaint has been filed.
6. In the larger interest of justice, petition is disposed of with a direction that since respondent on her own conduct acquiesced to territorial jurisdiction, in case at a subsequent stage, such technical objection is raised, learned trial Court shall proceed with the matter without being influenced by the objection of territorial jurisdiction.
7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 07, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No