



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

% **Reserved on : 31.07.2023**
Pronounced on : 29.11.2023

+ **CRL.M.C. 5252/2023 & CRL.M.A. 19950/2023**

RAJIV RATTAN

..... Petitioner

Through: **Mr. Kushagra Pandit, Advocate.**

versus

VISHAL BUTAN

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

J U D G M E N T

RAJNISH BHATNAGAR, J.

1. The present petition has been filed under section 482 of Cr.P.C with following prayers:

“a) Quash/set aside the Order dated 21.04.2023 passed by the Ld, MM-04, New Delhi District, Patiala House Courts in Cr. Case no. 16103 of 20 18, titled as Rajiv Rattan Vs. Vishal Butan; and

b) Direct that the Complaint filed by the Petitioner being Cr. Case No. 16103 of 2018 be transferred from the court of Ld. MM-04, New Delhi District, Patiala House Courts, New Delhi to the Court of ACMM, Central District, Tis Hazari Courts, New Delhi for onward trial from the same stage as it was on 21.04.2023 and/or;



c) Pass any such further order/(s) or relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed/granted."

2. The facts of the case, as asserted by the petitioner, are that the petitioner filed a complaint under section 138 against the respondent with respect to a cheque for a sum of Rs 25,00,000/-. The Respondent herein filed an application in the trial court seeking discharge from the present case, however, the same was dismissed by the Ld. Trial Court. The respondent then filed a revision petition against the said order in the sessions court. The Sessions Court, while disposing of the Revision Petition, observed that the Respondent herein had only restricted his prayer to issue directions to the Ld. Trial Court to decide the issue of territorial jurisdiction. While disposing of the Revision Petition, the Ld. Sessions Court directed that the matter be sent back to the Ld. Trial Court and further directed that if the Ld. Trial Court comes to the conclusion that it lacks the territorial jurisdiction, the matter shall be sent to the court having the territorial jurisdiction for onward trial, as per provisions of law. The Ld. Trial Court, after receiving the case back, observed that it lacks the territorial jurisdiction to decide the matter in hand, however, the jurisdiction to transfer the matter to the competent court is also beyond the jurisdiction of the court and the complaint can only be returned to the Petitioner and thus, in the impugned order by the Ld. MM, Patiala House Courts, it was directed that the complaint be returned to the Petitioner.

3. At the outset, it was submitted by the counsel for the petitioner that despite the directions given by the Ld. Sessions Court, the Ld. Trial court did not follow and went against the directions and returned the complaint



back to the Petitioner. It is further submitted that the Ld. Trial Court failed to consider and rely upon the judgment passed by this Hon'ble Court in M/s B.B.C Shipping & Ship Building and others vs. Govt. of NCT of Delhi & others, which was cited and relied upon by the petitioner in the Trial court. The Ld. Trial Court failed to appreciate that as per the complaint filed by the petitioner, the cheque was presented at HDFC Bank Asif Ali Road, which comes under the jurisdiction of Tis Hazari courts and thus the complaint ought to have been transferred to the court of Ld. ACMM Tis Hazari Courts.

4. I have heard the Ld. Counsel for the petitioner and also perused the documents on record. During the course of his arguments, Ld. Counsel for the Petitioner has relied upon a judgment passed by this Court in M/s B.B.C Shipping & Ship Building and Others vs Govt. of NCT of Delhi & Others whereby directions were passed by this court to directing the Ld. Sessions Court to place the case therein before the court of Ld. ACMM to transfer the case to the concerned court having the jurisdiction over the matter. The relevant portion of the above mentioned judgment is produced herein:

“18. Before I conclude the important aspect which both the counsel did not argue is that as on date Delhi constitutes to be one Sessions Division. Since, Delhi constitutes to be one Metropolitan area Under Section 8 of Criminal Procedure Code headed by one District & Sessions Judge and one Chief Metropolitan Magistrate and no separate Sessions Divisions have so far been created by bringing an amendment to Section 8 of Cr.P.C., therefore, it is apparent that the present division of the Sessions Courts is by way of administrative instructions. In view of this position, it would be travesty of justice if the proceedings which have already taken place before Karkardooma Court are set aside for de novo trial of the case, besides, such a course will result in causing further delay in the



matter. In the light of the above position, I am not in agreement with the counsel for the petitioner that after transfer of the case to Patiala House Courts, the trial of the case should commence afresh. Therefore, the court below is directed to transfer the complaint to the ACMM, Patiala House Court so as to place the same before the concerned Court having jurisdiction over the matter.

In view of the above discussion, the petition is allowed to the above extent. It is made clear that the proceedings at the Patiala House Court shall continue from the stage at which it was before the Karkardooma Courts. It is made clear that I have not considered the merit of any of the other contentions raised by the parties. Parties are directed to appear before the Karkardooma Court for appropriate directions on _____. ”

5. Looking into the facts and circumstances of the case, the directions given by the Ld. Sessions Court and relying upon the judgment passed by this Hon’ble Court, I am of the view that the Ld. MM, Patiala House Courts, has committed error in returning the complaint of the Petitioner and thus, the order passed by the Ld. MM is liable to be set aside.

6. Therefore, the order passed by the Ld. MM is set aside. It is directed that the case be placed before the court of concerned learned ACMM, Patiala House Courts, to send it to the competent court having the jurisdiction over it.

7. In view of the above the present petition is allowed to the same extent. It is made clear that the proceedings at the competent court shall continue from the stage at which it was before the Patiala House Courts. Parties are directed to appear before the Patiala House Court for appropriate directions on 30.01.2024.



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8. The petition stands disposed of with the aforesaid directions.

RAJNISH BHATNAGAR, J

NOVEMBER 29, 2023/ib