

16.08.2024
Ct. 3
Sl.16
BD.

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

CRR 92 of 2024
Ashim Sarkar
-Vs-
The Sub Manager of
Mahindra & Mahindra Financial Services Limited.

Mr. Jaydeep Kanta Bhowmick
Mr. Sayantan Bhowmick
Mr. Subham Kumar
Ms. Sayantani Das for the Petitioners.

Mr. Dwaipayan Banerjee
... for the opposite party

This is an application under section 407 of Code of Criminal Procedure wherein the petitioner submits that the opposite party herein initiated a proceeding under section 138 of the Negotiable Instrument Act, which is presently pending before the learned Chief Metropolitan Magistrate, 19th Court, Calcutta being Complaint Case No. CS/ 155030 of 2023.

Petitioner submits that opposite party willfully concealed some material fact and filed aforesaid criminal case in the court of learned Chief

Metropolitan Magistrate, Kolkata. The petitioner herein is an inhabitant within the jurisdiction of Kotwali Police Station, Jalpaiguri and the opposite party has also its branch office located at Prantik building, Kadamtala within the District of Jalpaiguri. Accordingly, it will be convenient for both the parties if the aforesaid proceeding which is presently pending before the court of learned Chief Metropolitan Magistrate, Kolkata be transferred to any court of Magistrate, Jalpaiguri having jurisdiction to try the same.

Mr. Banerjee, learned counsel appearing on behalf of the opposite party raised strong objection and contended that the entire transaction took place within the jurisdiction of the Park Street Police Station and as such, the Metropolitan Magistrate Court has only the jurisdiction to try the same and accordingly, he has prayed for dismissal of the said application.

In this context, he also referred a judgment of the Apex court in **Kasthuripandian S. Vs. RBL Bank Limited** reported in **Transfer Petitioners Criminal No. 515 of 2024** and contended that if the petitioner faced any difficulty in attending the court at Calcutta then he can always apply for grant of exemption from personal appearances to the concerned court but the transfer application, is not maintainable.

I have considered the submissions made by both the parties.

Section 142(2) of the Negotiable Instrument Act has created jurisdictional court to try such offences. When the legislature has created specific jurisdiction to try the said offence and when the banker of

payee/complainant, where the cheque got dishonoured situates within the jurisdiction of the Park Street Police Station, I find no reason to allow the petitioner's prayer for transfer of the said proceeding.

Accordingly, CRR 92 of 2024 stands dismissed.

However, this dismissal order will not preclude the petitioner to prefer an appropriate application before the Trial court seeking exemption from personal appearance to the concerned court and in the event of filing such application, the court below will dispose of the same in accordance with law without being influenced by any observations made herein.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)