

273 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63527-2023

Date of Decision: 22.04.2024

Amita @ Amita Rani

...Petitioner

vs.

Rajinder Singh

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. J.K.Singla, Advocate
for the petitioner.

Mr. Naukesh Singh, Advocate
for the respondent.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to set aside the order dated 29.11.2023 passed by the Court of Chief Judicial Magistrate, Patiala, whereby the complaint filed by the respondent bearing No.COMA/283/2019 titled as "Rajinder Singh Vs. Amita alias Amita Rani" under Section 138 of the Negotiable Instrument Act (hereinafter referred to as the 'Act') was withdrawn from the Court of Sub-Divisional Judicial Magistrate, Nabha and was transferred to the Court of Judicial Magistrate 1st Class, Nabha i.e. at the same station.

2. Learned counsel for the petitioner contends that in fact, the respondent had filed a complaint under Section 138 of the Act read with Section 420 of IPC against the present petitioner in the Court of Sub-Divisional Judicial Magistrate, Nabha. The accused/petitioner appeared before the trial Court and

was ordered to be released on bail and both the parties were appearing before the trial Court.

3. During the pendency of the complaint, the respondent moved an application under Section 410 Cr.P.C. before the Chief Judicial Magistrate, Patiala and the Chief Judicial Magistrate, Patiala had issued notice to the present petitioner / accused in the said transfer application. However, as per the report on summons, the petitioner was not found at his address and was not served. He further contends that ultimately, the complaint was transferred from the Court of Ms. Anuradha, Sub-Divisional Judicial Magistrate, Nabha to the Court of Ms. Ankita Mittal, Judicial Magistrate 1st Class, Nabha, without hearing the present petitioner. Learned counsel further submits that no doubt, the Chief Judicial Magistrate may to withdraw/recall any case from any Magistrate subordinate to him and may transfer it to any other Magistrate, competent to inquire or try the same. However, the Chief Judicial Magistrate has to record reasons for transferring the case. In the present case, the Chief Judicial Magistrate has not recorded the reasons for transferring the case from one Court to another Court at Nabha and the impugned order is legally unsustainable.

4. On the other hand, learned counsel for the respondent submits that there is no illegality in the impugned order passed by the Court of Chief Judicial Magistrate, Patiala and the same is liable to be upheld by this Court.

5. I have heard learned counsel for the parties and perused the record.

6. In the present case, it is apparent from the record that one more complaint under Section 138 of the Act was pending before the Court of Sub-Divisional Magistrate, Nabha and the said Court had declared the complainant

as money lender, without any evidence. Even the findings were recorded by the trial Court by overlooking the evidence and the said order was challenged by the respondent before this Court. Consequently, a prayer was made before the Chief Judicial Magistrate, Nabha to transfer the case from one Court to another Court at Nabha itself. Consequently, after considering the submissions of both the sides, the case was transferred from the Court of Sub-Divisional Magistrate, Nabha to another Court i.e. Judicial Magistrate 1st Class, Nabha. Even otherwise, the case has been transferred from one Court to another Court at Nabha itself and the trial is at nascent stage. Thus, no prejudice would be caused to the present petitioner/accused in any manner. Even no illegality was pointed out by the learned counsel in the impugned order and the impugned order is liable to be upheld by this Court.

Thus, findings no merits and the present petition is ordered to be dismissed.

22.04.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No