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

+ **TR.P.(CRL.) 78/2024**

PRADEEP KUMAR GAUTAM

.....Petitioner

Through: **Ms. Srishti Aggarwal, Adv.**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Ms. Priyanka Dala, APP for State and
SI Soamya Kulhar, PS Tigri.**

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

30.07.2024

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CRL.M.A. 22094/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed under Section 448 r/w 528 of BNSS, 2024 on behalf of the petitioner seeking transfer of CT. Case No. 2044/2023 which is pending in the court of Ld. MM, district New Delhi.
4. Learned counsel for the petitioner submits that initially the complaint was filed in South District. However, the concerned police station lies in the South-West District.
5. Learned APP for the State on advance notice submits that in fact initially, the complainant was pressing for direction for registration of



Zero FIR. However, later on the present application has been moved.

6. The power under Section 407 Cr.P.C empowers the court to transfer on the following terms.

“(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice, it may order---

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.”

7. In the present case, the complainant has filed the case before the court of the wrong jurisdiction and now wants to invoke the jurisdiction of this court for transfer of the case.
8. The complainant can very well withdraw the complaint and file it before the court of competent jurisdiction. Hence, the present petition is dismissed. However, the petitioner is at liberty to withdraw the



complaint and file it before the court of competent jurisdiction.

9. The petition stands dismissed.

DINESH KUMAR SHARMA, J

JULY 30, 2024/AR..