



\$~22

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

+ **TR.P.(CRL.) 90/2024**

VED PRAKASH

.....Petitioner

Through: Mr. Mayank Maini, Mr. Anmol
Chadha, Mr. Akhil Verma Mr. B.
Sethi and Mr. Aryan S., Advocates.

versus

KAMAL GOEL

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.01.2025

%

1. The present petition, filed under Section 447 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeks the transfer of two criminal complaints under Section 138 of Negotiable Instrument Act, 1881¹ bearing CC NI No. 194/2024 And CC NI No. 511/2024 titled as '*Ved Prakash v. Kamal Goel*' pending before the Court of Judicial Magistrate First Class, NI Act, Digital Court-01, North-West, Rohini to the Court of Judicial Magistrate First Class, NI Act-02, South-West District, Dwarka Court.

2. Despite service of notice, the Respondent has chosen not to appear or contest the present proceedings.

3. The Petitioner argues that the requested transfer is essential for the effective and expeditious adjudication of the matters. He contends that the CC NI No. 32817/2023 titled as '*Kamlesh v. Kamal Goel*', filed by his

¹ 'NI Act'



spouse, is already pending before the Judicial Magistrate First Class, NI Act-02, South-West District, Dwarka Court. The Petitioner emphasizes that all three cases arise out of the same transaction and involve overlapping issues of fact and law.

4. According to the Petitioner, the disputes emanate from a property transaction involving the Respondent. He asserts that the Respondent induced him and his spouse to make a part payment of INR 40,00,000/- for the property located at D-12/158, Ground Floor, Sector-7, Rohini, Delhi-110085, under a security agreement dated 01st April, 2022. Subsequently, the Respondent handed over possession of the property, creating an owner-tenant relationship. Later, under an agreement to sell dated 28th September, 2022, the Petitioner agreed to pay the Respondent's bank EMIs until 20th March, 2023, with assurances that these payments would be adjusted at the time of executing the sale deed for a total consideration of INR 1,40,00,000/-.

5. The Petitioner asserts that the Respondent failed to fulfil his obligations under the agreement to sell, resulting in the bank issuing a notice under the SARFAESI Act, demanding repayment of INR 81,96,842/- for the outstanding loan on the property. To address the Petitioner's grievance regarding the amounts paid by him and his wife under the agreement, the Respondent issued four post-dated cheques in their favour. However, upon presentation, two of these cheques were dishonoured, leading to the institution of the complaints referred above.

6. The dishonour of one of the cheques issued in favour of the Petitioner's wife resulted in the filing of CC NI No. 32817/2023, which is already pending adjudication in Dwarka Court. Given the commonality of facts and issues across the three complaints, the Petitioner submits that transferring the complaints to one court would prevent inconsistent findings



and ensure efficiency.

7. The Court has considered the submissions of the Petitioner. It is noted that all three cheques forming the basis of the aforementioned complaints were allegedly issued by the Respondent to discharge his liability towards the Petitioner and his wife and arise from the same agreement. In light of the common questions of fact and law involved, adjudication by a single court is warranted to ensure consistency and avoid conflicting decisions. The Petitioner's request for transfer of these cases is, therefore, justified and holds merit.

8. Accordingly, in the exercise of the power under Section 447 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, it is directed that CC NI No. 194/2024 And CC NI No. 511/2024 titled as '***Ved Prakash Vs Kamal Goel***' be transferred to the Court of Judicial Magistrate First Class, NI Act-02, South-West District, Dwarka Court.

9. With the above directions, CC NI No. 194/2024 And CC NI No. 511/2024 titled as '***Ved Prakash Vs Kamal Goel***' stand transferred.

10. A copy of the order be sent to the District and Sessions Judge for necessary compliance.

11. With the above directions, the petition is disposed of.

SANJEEV NARULA, J

JANUARY 9, 2025

as