

**HIGH COURT OF PUNJAB AND HARYANA**

**BENCH : HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

**Date of Decision: 1st May 2024**

CRM-M-11845-2023 (O&M)

**Sumesh Sharma & others .....Petitioners**

**Versus**

**Guravtar Singh Grewal & another .....Respondents**

**Legislation and Rules:**

Section 407 of the Criminal Procedure Code, 1973

Section 138 of the Negotiable Instruments Act, 1991

**Subject:** Petition for transfer of a complaint under Section 138 of the Negotiable Instruments Act from Fazilka to Chandigarh on grounds of jurisdiction based on the location of the complainant's bank account.

**Headnotes:**

Transfer of Criminal Complaint – Jurisdiction under Section 138 of the Negotiable Instruments Act, 1991 – Petition filed by accused for transfer of complaint related to dishonoured cheque from Fazilka to Chandigarh, claiming that complainant's bank account is maintained at Chandigarh – Controversy over actual maintenance location of the bank account whether at Chandigarh or Fazilka – Respondents provided certificate from Canara Bank, Muthianwali Branch, Fazilka confirming account maintenance at Fazilka – Court finds jurisdictional issue to be a matter of factual determination, inappropriate for decision at the stage of petition for transfer – Petition disposed of with liberty granted to petitioners to raise jurisdiction issue before trial court, which may decide the same at the outset after allowing parties to lead evidence if necessary. [Paras 1-7]

**Referred Cases:**

None cited directly in the decision.

**Representing Advocates:**

Mr. Simranjeet Singh for the petitioners

Mr. Ishan Gupta & Ms. Palvi for the respondents

GURVINDER SINGH GILL, J.

1. The instant petition has been filed on behalf of the petitioners/accused under provisions of Section 407 Cr.P.C. seeking transfer of a complaint filed by the respondents under Section 138 of the Negotiable Instruments Act, 1991 from the Court at Fazilka to the Court of competent jurisdiction at Chandigarh or at SAS Nagar (Mohali).
2. A few facts necessary to notice for disposal of the petition are that a contract had been entered into between M/s Balaji Enterprises and M/s Netwal Hospitality as per which M/s Netwal Hospitality was to undertake several jobs assigned by M/s Balaji Enterprises pertaining to survey work in ground level of awareness of diseases like Maternal Health, AIDS/HIV etc. As per the complainant, the accused firm i.e. M/s Balajit Enterprises had issued cheque No.000035 dated 01.11.2022 for an amount of Rs.5 lakhs drawn on IDFC First Bank in lieu of services rendered by the complainant/company. However, upon presentation of cheque by the complainant in his bank account No.2845201000368, the same was dishonoured leading to filing of the complaint by the respondents/company.
3. Learned counsel for the petitioners/accused submits that at the time of entering into contract between the parties, the account details of the Company had been exchanged and the complainant had furnished its bank details as Account No.2845201000368 under the name & style of M/s Netwal Hospitality, Canara Bank, Branch Panjab University Campus, Sector-14, Chandigarh, IFSC Code – CNRB0002845. Learned counsel submits that although the current account was maintained by the complainant in the Branch situated at Panjab University Campus, Sector-14, Chandigarh, but in order to harass the accused/petitioners, the cheque in question was presented in Fazilka and thereafter complaint has been instituted in Fazilka. Learned counsel submits that since the bank account is being maintained by the Branch at Panjab University Campus, therefore, the complaint on account of any dishonor of cheque ought to have been instituted in the Court of competent jurisdiction at Chandigarh.

4. Opposing the petition, learned counsel representing the respondents submitted that the account in question was opened in Canara Bank, Branch Muthianwali, District Fazilka and although respondent No.1 during the period when he was studying in Chandigarh had got the account transferred to Chandigarh, but upon completion of his studies, he got the same shifted back to Fazilka, where he has been operating the same regularly. Learned counsel in this regard has referred to a certificate issued by the Manager, Canara Bank, Muthianwali Branch, Fazilka (Annexure R-1), which reads as under: “This is to certificate that M/S NETWAL HOSPITALITY, Prop. GURAVTAR SINGH HAVING ACCOUNT NUMBER 2845201000368 IS REGULARLY MAINTAINING ITS CURRENT ACCOUNT WITH US AT CANARA BANK, BRANCH MUTHIANWALI, DISTRICT FAZILKA.”
5. The aforesaid certificate would, prima facie, suggest that the account is being maintaining in Fazilka.
6. Having heard learned counsel for the parties, this Court finds that the question as to whether the Bank account of the complainant/Company stood permanently transferred to Chandigarh from Fazilka or as to whether the said bank account continued with Muthianwali Branch, Fazilka despite the respondents operating from Chandigarh for a couple of years, is a question of fact requiring evidence. At this stage, this Court would not deem appropriate to comment upon the certificate (Annexure R-1) pressed into service by the respondents issued by the Manager, Muthianwali Branch, Fazilka. As such, the instant petition seeking transfer of a complaint filed under Section 138 of the Negotiable Instruments Act is disposed of with liberty to the petitioners to raise the issue regarding jurisdiction before the trial Court concerned at appropriate stage. If deemed appropriate and convenient, the trial Court concerned may even decide the said issue at the very outset by permitting the parties to lead evidence in this regard.
7. Petition stands disposed of accordingly.

\*Disclaimer: Always compare with the original copy of judgment from the official website.