

(2022) 08 PAT CK 0080

In the Patna High Court

Case No : Criminal Miscellaneous No. 36912 Of 2021

Smita Devi

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 11-08-2022

Acts Referred:

Negotiable Instrument Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 407

Citation : (2022) 08 PAT CK 0080

Hon'ble Judges : Prabhat Kumar Singh, J

Bench : Single Bench

Advocate : Shailendra Kumar Singh, Aditya Narayan Singh.1, Anurag Saurav, Avinav Alok, Priyajit Pandey

Final Decision : Dismissed

Judgement

This application has been filed for transfer of Complaint Case No. 122C/2021 from the Court of Judicial Magistrate 1st class, Munger to any competent Court at Birpur or any other competent court under Supaul Sessions Division.

Petitioner is one of the accused of Complaint case no. 122C/2021 which has been filed by opposite party no.2. As per the complaint, two cheques issued by the petitioner in favour of opposite party no.2 got dishonoured on account of 'exceed arrangements', pursuant to which complaint was filed and therefore cognizance of the offence was taken under section 138 of the Negotiable Instrument Act and summons were issued to the petitioner vide order dated 23.2.2021 by the Court of the Chief Judicial Magistrate, Munger.

Learned counsel appearing for the petitioner submits that the complainant and the petitioner both are old residents of Birpur and run Customer Service Point (CSP) of Central bank of India at Birpur and also do the work of property dealer at Birpur area having bank accounts at Birpur. He further submits that because of previous annoyance, complainant intentionally presented the cheques in question at Munger only for harassing the petitioner because Munger is far from Birpur.

Besides this, all the witnesses of the case are residents of Birpur and the court of competent jurisdiction is also available in Birpur. Learned counsel submits that the petitioner is a lady and there is no one in the family of the petitioner to accompany her while travelling to Munger in course of pursuing the case time and again required by the court.

Per contra, learned counsel representing opposite party no.2 by filing counter affidavit controverts the submissions advanced on behalf of the petitioner. He submits that in fact cheques in question were dishonored in bank situated at Munger. He further submits that material witnesses are residents of district Munger. Furthermore, inconvenience of parties cannot be a valid basis for transfer of criminal proceeding from one Court to another. Secondly, convenience of parties does not necessarily mean the convenience of petitioner alone. In this regard, reference is given to the decision of the Hon'ble Supreme Court in case of Monica Vs. State of Rajasthan, reported in 2010 SC 103.

The law with regard to transfer of cases is well-settled. In the case of Monika Vs. State of Rajasthan (supra), Hon'ble Supreme Court has held that "The convenience of the parties does not mean the convenience of the petitioner alone who approaches the court on misconceived notions of apprehension. Convenience for the purposes of transfer means the convenience of the prosecution, other accused, the witnesses and the larger interest of the society".

More so, inconvenience cannot be a valid basis for transfer of criminal proceeding from one Court to another under section 407 of the Cr.P.C. Contention of the petitioner regarding inconvenience is wholly frivolous. It is un-understable that a plea of inconvenience can be ground to avoid travelling distance of merely few kilometers even if it is assumed that a couple of hours would be consumed for travelling to and fro. This inconvenience would not be such an basis for seeking transfer. If such plea is accepted, provisions contained in Cr.P.C. conferring jurisdiction, would become meaningless. In this case, entire transaction (the cheques in question being bounced) took place in the bank of Munger. Besides this, the complainant and material witnesses are residents of Munger. Simply because the petitioner and some of the witnesses are resident of Birpur, cannot be a ground for transfer of the case.

In view of the above discussions as well as the decision of the Hon'ble Supreme Court laid down in the case of Monica Vs. State of Rajasthan (supra), all grounds on which petitioner seeks transfer of the case are unsustainable.

The transfer petition being devoid of merit, is dismissed accordingly.