

(REVISED SIGNED ORDER)
IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRIMINAL) NO.293 OF 2020

SACHIN GARG

Petitioner(s)

VERSUS

DUGESH BERMAN

Respondent(s)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent. The Petitioner has been arraigned as an accused in a complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881, which is pending in the Court of the 3rd Additional Civil Judge (J.D.)/Judicial Magistrate, Haridwar, Uttarakhand. The Petitioner is seeking transfer of the said complaint to the Court of the Chief Judicial Magistrate Mathura, Uttar Pradesh or Chief Judicial Magistrate, Hathras, U.P. The transfer is mainly sought on medical ground.

The learned counsel appearing for petitioner relies upon various documents and in particular, the documents annexed in rejoinder, which show that in July, 2021, the petitioner has undergone a major surgery. The learned counsel appearing for the respondent opposes the prayer by

contending that even the respondent has many ailments and the present age of the respondent is 63 years. The learned counsel appearing for the petitioner submits that the respondent has minor ailments.

The petitioner is an accused in a complaint under Section 138 of the Negotiable Instruments Act, 1881. The case of the petitioner that the cheque was stolen is a defence in the proceedings. Moreover, if by reason of ailments, the petitioner is not in a position to attend the Court at Haridwar, Uttarakhand, he can always request the concerned Court to permit him to appear through medium of Video Conference. If such an application is made and if the learned Magistrate is satisfied that by reason of his ailments, the petitioner is unable to physically appear in Court, the learned Magistrate will extend the facility to the petitioner of causing appearance in the trial through Video Conference.

Subject to what is observed above, no case is made out for passing the order of transfer.

The Transfer Petition is accordingly disposed of.

.....J.
(ABHAY S. OKA J.)

New Delhi
10th December, 2021

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