

SUPREME COURT OF INDIA

M/s Harbans Lal and Sons

Vs.

Ramson Cycles Pvt. Ltd.

Transfer Petition(Crl.) No. 319 of 2008

(Tarun Chatterjee and H.L.Dattu JJ.)

27.01.2009

ORDER

1. This petition under Section 406 of the Code of Criminal Procedure has been filed by the accused person seeking transfer of the cases filed by the complainant under Section 138 of the *Negotiable Instruments Act* (Act for short) numbered as 1063 of 2002 and 1064 of 2002 pending trial in the court of Judicial Magistrate, First Class, at Ludhiana, Punjab.

2. In the Transfer Petition filed, apart from the others, it is stated that the petitioner is a resident of Delhi; sufficiently aged; suffering from severe nephrology problems on his both kidneys and requires dialysis twice in a week; a case of ischaemic heart disease for the last five years; operated for severe double vessel coronary artery disease in Ganga Ram Hospital; operated for coronary angiography +LV Angio + PTCA of LCX in Saroj Hospital and Heart Institute. In support of assertion, the petitioner has produced certificates issued by the competent authorities of the hospitals who have treated him for his heart ailments and also the certificate of the doctor who is performing dialysis once in two weeks, who has opined that the petitioner should not take long journeys outside the city.

3. The assertion made by the petitioner is not disputed by the other side and, in our opinion, cannot also be disputed in the light of the voluminous medical certificates produced by the petitioner alongwith the petition docket.

4. After perusing the certificates issued by the different hospitals, where the petitioner had undergone treatment for his heart ailments and also taking into consideration the certificate issued by the doctor who is performing the dialysis once in two weeks and has also advised him not to travel a long distance, we are of the opinion that the petitioner has made out a case for relief claimed in the petition.

5. Interest of justice demands that the case requires to be transferred. Therefore, we direct the Judicial Magistrate, First Class, at Ludhiana, Punjab, to transfer the case to the District Judge, Tis Hazari Courts, Delhi, within a month from the date of receipt of a copy of this court's order. The transferee court may decide the case itself or make over the same to a court

of competent jurisdiction under it. The transferor court shall remit the records of the case to the transferee court soon on communication of copy of our order. We further direct that the transferee court shall decide the complaint filed by the complainant as expeditiously as possible at any rate within an outer limit of six months month from the date of transfer.

6. The transfer petition is disposed of accordingly.