

GJMR010036042025



Received on : 26/12/2025  
Registered on : 26/12/2025  
Decided on : 01/04/2026  
Exhibit :

IN THE COURT OF SESSIONS JUDGE, MORBI.

**Criminal Misc. Application No.1542/2025**

**Applicant :-**

Balubhai Amarshibhai Kadivar,  
Age-64 Years, Occupation-Retired & Agri. Work,  
Add. - Block No.29, Avani Park Society, Shanala Road, Morbi.

vs.

**Opponent :-**

Mansukhbhai Veljibhai Chavda @ Munnabhai,  
Add. - Hadani Tanchni Vadi, B/h. Village-Shanala, At-Shakat  
Shanala, Tal. & Dist. Morbi.

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**Application u/s.448 of B.N.S.S. for transfer of complaint**

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**Advocates:-**

Mr. J. C. Sevra, Learned Advocate for Applicant.  
Mr. C. D. Karia, Learned Advocate for Opponent.

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**-:: JUDGMENT ::-**

- [1] The present application has been presented by the applicant, for transfer of a complaint, filed u/s.138 of Negotiable Instrument Act, by the applicant herein, against the opponent herein.
- [2] The learned Advocate, Mr. J. C. Sevra, appearing on behalf of the applicant, has submitted before this Court, that the applicant herein has filed a criminal complaint against the opponent herein, for the offence punishable u/s.138 of

Negotiable Instruments Act, which is numbered as Criminal Case No.2593/2020. It is further the case of the applicant that, earlier the said Criminal Case No.2593/2020 was pending before the Court of learned Judicial Magistrate First Class at Morbi and entire trial as well as recording of evidence was done before the said Court and at last, the said case was pending only for final arguments of the parties, in the said Court. It is further submitted that, upon establishment of two new Courts in Morbi, the cases pending in all the Courts were transferred in different Courts and in such a procedure, the present case bearing Criminal Case No.2593/2020 was also transferred to the Court of learned Additional Chief Judicial Magistrate at Morbi. It is further submitted that, only the Court before which the evidence has been recorded and the trial has been conducted is best suited to deliver a just and proper final decision, in the interest of justice. In view of the above-stated facts, since the entire trial as well as the recording of evidence has been conducted in the Court of learned Judicial Magistrate First Class at Morbi, it is in the interest of justice that, the final hearing as well as final judgment is delivered by the said Court only. Hence, the applicant has filed the present application to transfer the said case to the Court of learned Judicial Magistrate First Class at Morbi. It is further submitted that, if the present application is granted, the opposite party will suffer no prejudice whatsoever.

Moreover, as per the legal principle of law, the Magistrate before whom the complainant's witnesses have been examined is well acquainted with all the facts of the case and the veracity of the complainant's witnesses. The magistrate who conducts the trial is the one who delivers the judgment, which is fundamental to legal systems, as it ensures that the person making the decision has heard all the evidence and observed witness testimonies firsthand. This ensures fairness and is a standard procedure in judicial processes. Therefore, it is prayed that, the Criminal Case No.2593/2020, currently pending in the Court of learned Additional Chief Judicial Magistrate at Morbi, be transferred to the Court of learned Judicial Magistrate First Class at Morbi, for the purpose of final disposal.

- [3] Upon due service of notice, the opponent appeared before the Court through his learned Advocate Mr. C. D. Karia and filed his written objections at Exhibit-9. In his written objections, the opponent has strongly opposed the present application and has mainly contended that, while he has no objection to the case being tried by any competent Court at Morbi, the applicant has stated false and fabricated facts in the present application in an attempt to mislead the Court. It is further submitted that, the legal principle cited by the applicant in Para (4) regarding the entire trial being conducted by the same Judge applies only when evidence of both sides is complete and arguments are concluded,

whereas in the present case, only the complainant's evidence is complete, and the accused's statement, defence evidence, and arguments of both sides are still pending. It is further submitted that the cross-examination of the complainant has been recorded in three parts before three different Presiding Officers, which itself disproves the applicant's contention. The applicant has not approached the Court with clean hands and has no valid cause of action for filing the present application. In view of the above, it is humbly prayed that the application be dismissed with costs.

- [4] Heard the learned advocates appearing on behalf of the respective parties. Upon perusal of the facts of the present application, it appears that the applicant has filed a criminal complaint against the opponent herein under Section 138 of the Negotiable Instruments Act, being Criminal Case No.2593/2020, which is presently pending before the Court of the learned 4<sup>th</sup> Additional Chief Judicial Magistrate at Morbi. It further appears from the facts of the present application, as well as from the documents produced along with it, that the said case, i.e., Criminal Case No.2593/2020, was earlier pending before the Court of the learned Additional Judicial Magistrate First Class at Morbi. Upon the establishment of two new courts at Morbi, the cases pending in the courts functioning at Morbi were transferred to different courts on administrative grounds. In this process, the present case

was also transferred to the Court of the learned 4<sup>th</sup> Additional Chief Judicial Magistrate at Morbi, where it is currently pending. Since the order of transfer of the said case was passed in the interest of the proper administration of justice, and as the applicant has sought transfer of the case to a particular court without assigning any cogent or sufficient reason, such prayer cannot be granted. It is also not a case wherein the final arguments of both parties have been concluded and the matter is pending solely for pronouncement of judgment. Therefore, in view of the above, this Court is not inclined to transfer the said case to any other court at present. Hence, the following order is passed.

**--: ORDER :-**

- 1). The present Criminal Misc. Application No.1542/2025, is hereby rejected.

Signed and pronounced in the open Court today on this 1<sup>st</sup> day of April, 2026.

Place :- Morbi  
Date :- 01/04/2026

**(K. R. Pandya)**  
I/c. Sessions Judge,  
Morbi  
Judge Code GJ00739

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