

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRIMINAL) NO.127 OF 2016

DARSHAN KUMAR GARG ... PETITIONER(S)

VERSUS

MUKUL KUMAR JAIN ... RESPONDENT(S)

O R D E R

We have heard learned counsel for the parties.

The dispute in the present case originated from the bouncing of a cheque issued by the respondent to the petitioner. This led the petitioner to file a private complaint under Section 138 of the Negotiable Instruments Act, 1881 on 20th February, 2014.

The petitioner had also filed a civil suit in the Delhi High Court being Suit No.4033 of 2014. This suit was decreed *ex parte* against the respondent on 8th April, 2015. We are told that the respondent moved an application for setting aside the *ex parte* decree, but that application was rejected by the learned Single Judge.

It appears that as a counter-blast to the proceedings initiated by the petitioner under Section 138 of the Negotiable Instruments Act, 1881, the respondent filed a Criminal Complaint Case No.1038 of 2014 in the Court of the Additional Chief Judicial Magistrate VIII,

Meerut, U.P. under Section 406/420/467/468/471 IPC.

We are told by learned counsel for the petitioner that the respondent has not been appearing in the Court in the hearing of the complaint under Section 138 of the Negotiable Instruments Act, 1881.

Looking to the facts of the case, it is quite clear to us that the criminal complaint filed by the respondent against the petitioner was merely a counter-blast and an abuse of the process of the Court with the intention to pressurize the petitioner who has now obtained an *ex parte* decree in a civil suit and also is pursuing the proceedings under Section 138 of the Negotiable Instruments Act, 1881.

Under these circumstances, in exercise of our power under Article 142 of the Constitution of India, we quash the Criminal Complaint Case No.1038 of 2014 pending before the Court of the Additional Chief Judicial Magistrate VIII, Meerut, U.P. We may mention at this stage that in Murari Lal Gupta Vs. Gopi Singh [(2005) 13 SCC 699], a Bench of 3-Judges of this Court had exercised similar power of quashing a criminal complaint against the petitioner therein.

The transfer petition is disposed of.

.....J.
(MADAN B. LOKUR)

.....J.
(PRAFULLA C. PANT)

NEW DELHI
FEBRUARY 16, 2017

ITEM NO.4

COURT NO.5

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s) (Criminal) No(s) .127/2016

DARSHAN KUMAR GARG

Petitioner(s)

VERSUS

MUKUL KUMAR JAIN

Respondent(s)

(WITH APPLN. (S) FOR stay and Office Report)

Date : 16/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Abhinav Ramkrishna, AOR
Mr. Gautam Gupta, Adv.
Mr. Uzair Ellahi, Adv.

For Respondent(s) Mr. Sanjiv Jha, Adv.
Mr. Braj Kishore Mishra, AOR
Ms. Aparna Jha, Adv.
Mr. Amit Bhagat, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The transfer petition is disposed of in terms of the
signed order.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)