

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 540 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

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SANJEEV P SHAH

Versus

BIREN V SHAH

Appearance:

1. Criminal Misc.Application No. 540 of 2002
MR UA TRIVEDI for Petitioner No. 1
MR JAGDISH MEHTA for MR MURALI N DEVNANI
for Respondent No. 1
MR K.C.SHAH, APP for Respondent No. 2
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CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 29/06/2002

ORAL JUDGEMENT

Rule. Mr. Jagdish Mehta, learned advocate
appears and waives service of notice of rule on behalf of
respondent No.1 whereas Mr. K.C.Shah, learned APP

appears and waives service of notice of rule on behalf of respondent No.2 State of Gujarat.

2. In this petition which is filed under Section 407 of the Code of Criminal Procedure ('the Code' for short), petitioner against whom four criminal cases are registered in the Court of Metropolitan Magistrate (Court No.20), Ahmedabad and 4th Joint Judicial Magistrate First Class, Ahmedabad Rural, for commission of the alleged offences under Section 138 of the Negotiable Instrument Act, on the basis of the complaint filed by respondent No.1, has prayed that all the four criminal cases may be placed for inquiry and trial either before the Metropolitan Magistrate (Court No.20), Ahmedabad or before the 4th Joint JMFC, Ahmedabad Rural, on the grounds stated in the petition.

3. It is stated in the petition that respondent No.1 (complainant) has filed a Criminal Case No. 1774 of 2001 in the Court of Metropolitan Magistrate (Court No.20), Ahmedabad and Criminal Case Nos. 2537 of 2001, 3140 of 2001 and 3141 of 2001 are filed in the Court of 4th Joint JMFC, Ahmedabad Rural. It is further stated in the petition that the petitioner as well as respondent No.1 are the permanent resident of Ahmedabad. It is alleged in the complaint that the petitioner has given four cheques of different dates to respondent No.1 drawn on the same Bank and Branch which were placed for encashment by the respondent No.1 at different Branches just with a view to create territorial jurisdiction of two separate Courts and, therefore, it is prayed that for the sake of convenience of the petitioner as well as respondent No.1, all the criminal cases may be placed either before the Metropolitan Magistrate (Court No.20), Ahmedabad or before the 4th Joint JMFC, Ahmedabad Rural for inquiry and trial.

4. I have heard Mr. U.A.Trivedi, learned advocate for the petitioner, Mr. Jagdish Mehta, learned advocate for respondent No.1 and Mr. K.C.Shah, learned APP for respondent No.2 State of Gujarat. I have also perused the averments made in the memo of the petition, grounds set out therein and the averments made in the four complaints.

5. On the facts and in the circumstances emerging from the record of the case, it appears that the petitioner has given four cheques to respondent No.1 drawn on the same Bank and Branch, however, respondent No.1 has placed those cheques at different branches of the Bank. Therefore, respondent No.1 has filed four

criminal cases; one in the Court of Metropolitan Magistrate (Court No.20), Ahmedabad and three in the Court of 4th Joint JMFC, Ahmedabad Rural. There is no dispute that the petitioner as well as respondent No.1 are the permanent resident of Ahmedabad. All the four cheques have been given by the petitioner to respondent No.1 in connection with their monetary transaction, therefore, it is desirable and in the interest of justice that all the complaints should be inquired and tried by the same Magistrate, i.e., either by the Metropolitan Magistrate (Court No.20), Ahmedabad or by the 4th Joint JMFC, Ahmedabad Rural, which would meet the ends of justice. Therefore, this petition deserves to be allowed by granting the relief as prayed for in the petition.

6. For the foregoing reasons, petition succeed and accordingly it is allowed. Criminal Case No. 1774 of 2001 pending in the Court of Metropolitan Magistrate (Court No.20), Ahmedabad is hereby transferred to the Court of 4th Joint JMFC, Ahmedabad Rural before whom Criminal Case Nos. 2573 of 2001, 3140 of 2001 and 3141 of 2001 are pending for inquiry and trial. The Metropolitan Magistrate (Court No.20), Ahmedabad is hereby directed to transmit the record and proceedings of Criminal Case No. 1774 of 2001 to the Court of 4th Joint JMFC, Ahmedabad Rural forthwith.

Rule is made absolute.

(A.M.Kapadia,J)

Jayanti*