

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

CTA no. 50/2012

Date of order: 14.11.2013

Gian Chand Vs. Dheeraj Kumar and anr

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice

Appearing counsel:

For the Petitioner(s) : Mr. V. Bhushan Gupta, Advocate.

For the Respondent(s) : Mr. B. B. Kotwal, Advocate.

1. This application filed under Section 22 of the Code of Civil Procedure has been filed with a prayer that civil suit titled Dheeraj Kumar v. Gian Chand and ors, pending before the learned District Judge Bhaderwah may be transferred to the Court of learned District Judge Kathua.

2. The basis for transfer is that father of respondent-Dheeraj Kumar has already filed a criminal complaint under Section 55 Cr.P.C against the petitioner and his wife on 02.11.2011 in the Court of Judicial Magistrate Bani District Kathua wherein the process has been issued against the petitioner. The aforesaid issuance of process has been subject matter of challenge in a petition filed under Section 561-A Cr.P.C before this Court. The copies of the criminal compliant and the petition filed under Section 561-A Cr.P.C have been placed on record (Annexure A and B). In the civil suit the plaintiff-respondent no.1 has sought recovery of Rs. 50,000/- as

damages on account of rupturing his reputation. The suit has been filed as an indigent person (forma papus). The dispute between the parties appear to have emerged on account of arranged marriage of the daughter of the petitioner with the some of the plaintiff. The marriage did not materialize. On account of failure of arranged marriage the plaintiff-respondent is alleged to have contacted the parents of another girl of the same village. As per the allegations, the plaintiff again started mounting pressure for revival of the arranged marriage, as was agreed earlier, however, the promise was broken.

3. Objections have been filed and I have heard the learned counsel for the parties.

4. It has come on record that Dheeraj Kumar has already filed a complaint in the Court of Judicial Magistrate Bani District Kathua. He may be required to prosecute the case at Bani. The facts in both the cases are quite akin to each other, thus there is no reason to choose two different forums for filing the criminal complaint and the civil suit. Therefore, within the meaning of Section 22 of the Code of Civil Procedure I am persuaded to take the view that the prayer of the petitioner could be granted.

5. As a sequel to the above discussion, this petition succeeds. The proceedings in case titled Dheeraj Kumar v. Gian Chand and ors, pending in the court of learned District

Judge Bhaderwah are ordered to be transferred to the Court of learned District Judge Kathua. Learned District Judge Bhaderwah shall transmit the record of the file to the learned District Judge Kathua after retaining a photocopy of the file for record. Parties through their counsel are directed to appear before Principal District Judge, Kathua on 13.12.2013.

**(M. M. Kumar)
Chief Justice**

Jammu,
14.11.2013
Anil Raina, Secy.