HIGH COURT OF JAMMU AND KASHMIR

AT JAMMU

CRTA no. 1/2012
CrMA no. 1/2012

Date of order: 14.11.2013

Avtar Singh   v   Devinder Singh & ors.

Coram:

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

Appearing counsel:

For the petitioner(s) :   Mr. Anil Sethi, Advocate.
For the respondent(s) :

1.   This is an application seeking transfer of proceedings initiated by the petitioner by filing complaint in the Court of Munsiff Judicial Magistrate, Samba to any Court of competent jurisdiction at Jammu.

2.   According to the averments made, the learned Chief Judicial Magistrate, Samba invoked the provisions of Section 156(3) Cr.P.C and then FIR no. 59/2009 under Sections 415/420 RPC was registered. Accordingly, a closure report in terms of Section 173 CrPC was filed before the Munsiff Judicial Magistrate, Samba. Mr. Sethi submits that the petitioner wants to file protest petition against the closure report and on account of his Cardiac disease, he has not been able to travel to Samba. The accompanied documents show that

he has undergone Open Heart Surgery at ESCORTS Heart Institute, New Delhi.

Notice of the petition was issued but the respondents have refused to accept notice which is sufficient service.

After hearing Mr. Sethi, learned counsel for the petitioner I am of the view that no prejudice is likely to occur to the respondents if the matter is transferred from the Court of Munsiff Judicial Magistrate, Samba to the competent jurisdiction at Jammu. The petitioner is suffering from heart disease which may prevent him to visit Samba for filing a protest petition. There is thus merit in the petition. Accordingly, the proceedings are withdrawn from the Court of learned Munsiff Judicial Magistrate, Samba and transferred to the Principal District & Sessions Judge, Jammu with a direction that he may entrust the same to the Court of competent jurisdiction at Jammu.

The parties shall appear before the Principal District & Sessions Judge, Jammu on 10.12.2013.

(M. M. Kumar)
Chief Justice

Jammu,
14.11.2013
Vijay