

2025 LiveLaw (SC) 289

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

ABHAY S. OKA; J., UJJAL BHUYAN; J.

TRANSFER PETITION (CRIMINAL) NOS.1035-1056 OF 2024; January 21, 2025

M/S KAMAL ENTERPRISES & ANR. *Versus* A. K. CONSTRUCTIONS CO

Negotiable Instruments Act, 1881; Section 138 - Territorial Jurisdiction - Transfer Petition – Maintainability - The issue of lack of territorial jurisdiction in complaints filed under Section 138 of the N.I. Act is a matter to be raised before the Trial Court. The Magistrate has the power to return the complaint for presentation to the proper court if satisfied that the court lacks territorial jurisdiction. Therefore, the issue of territorial jurisdiction cannot be adjudicated in a transfer petition. (Para 2 & 3)

Mr. Siddharth S. Chapalgaonkar, Adv. (Amicus Curiae)

For Petitioner(s): Mr. Nikhil Kumar Singh, Adv. Ms. Preeti Thanvi, Adv. Mr. Achal Singh Bule, Adv. Mr. Rishi Matoliya, AOR

For Respondent(s) : Mr. Vinay Navare, Sr. Adv. Mr. Manoj K. Mishra, AOR Mr. Umesh Dubey, Adv. Ms. Madhulika, Adv. Mr. Anand Kumar Rai, Adv.

ORDER

1. Heard the learned counsel appearing for the petitioners.
2. The petitioners are the accused in the complaints filed under Section 138 of the Negotiable Instruments Act, 1881. The contention of the petitioners is that the Trial Court before which the complaints have been filed by the respondent has no jurisdiction to entertain the complaints. The petitioners are entitled to raise the said contention before the learned Magistrate who is empowered to return the complaint for presentation to proper Court, if the learned Magistrate is satisfied that the Court has no territorial jurisdiction.
3. Therefore, this ground of lack of territorial jurisdiction cannot be considered in these Transfer Petitions.
4. On an application made by the accused, the Trial Court can always grant exemption from personal appearance subject to condition that whenever their presence is mandatory, they must attend the Court.
5. Subject to what is observed above, the Transfer Petitions are dismissed.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)