



Nijeesh Kalamkolly v. Axis Bank Limited (SC)

[\(2022\) Law Today Live Doc. Id. 17145](#)

SUPREME COURT OF INDIA

Before: Aniruddha Bose & Vikram Nath, JJ.

Transfer Petition (Criminal) No. 455 of 2021

Decided on: 19.10.2022

Nijeesh Kalamkolly

Petitioner

Versus

Axis Bank Limited

Respondent

For Petitioner(s):

Mr. Jaimon Andrews, Adv. Mr. Karthik A., Adv. Mr. Piyo Harold Jaimon, Adv.
Mr. Firdouse C.P., Adv. Mr. Naresh Kumar, AOR

Negotiable Instruments Act, 1881 (26 of 1881), Section 138 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 406 -- Transfer of complaint u/s 138 of NI Act - West Bengal to Kerala -- Petitioner states that the entire transaction of loan, for which the cheque was alleged to have been issued, had taken place at Calicut, Kerala -- Jurisdiction of the Magistrate's Court at Calcutta (Kolkata), West Bengal is invoked as the cheque was presented in a Bank, which was within the jurisdiction of that Court -- In such circumstances, it would be expedient for the ends of justice to transfer the complaint to the Court at Kerala -- Petition allowed.

(Para 2-7)

ORDER

1. Despite service, none has entered appearance on behalf of the respondent - Bank.

2. Heard learned counsel appearing for the petitioner.

3. The petitioner seeks transfer of a proceeding under Section 138 of Negotiable Instruments Act, 1881, instituted in the Court of Metropolitan Magistrate, Calcutta (Kolkata), West Bengal, on the allegation of dishonour of a cheque. The petitioner states that the entire transaction of loan, for which the cheque was alleged to have been issued, had taken place at Calicut, Kerala.

4. The jurisdiction of the Magistrate's Court at Calcutta (Kolkata), West Bengal is invoked as the cheque was presented in a Bank, which was within the jurisdiction of that Court.

5. In such circumstances, in our opinion, it would be expedient for the ends of justice to transfer C.S. No. 30646 of 2021 titled as "*Axix Bank Ltd. vs. Nijeesh Kalamkolly*" pending before the Court of 19th Metropolitan Magistrate Court, Calcutta (Kolkata), West Bengal to the Court of Judicial Magistrate, 1st Class, Calicut District, Kerala.

6. The records shall be sent to the transferee Court and the Court of Judicial Magistrate, Calicut, Kerala shall proceed in the matter from the stage at which the matter is transferred.

7. The Transfer Petition stands allowed accordingly.

8. Pending applications, if any, shall stand disposed of.

9. There shall be no order as to costs.

Petition allowed.
