

2022 LiveLaw (SC) 880

IN THE SUPREME COURT OF INDIA
CORAM: HON'BLE MR. JUSTICE ABHAY S. OKA
Transfer Petition(s)(Criminal) No(s). 655/2022; 19-10-2022
S. NALINI JAYANTHI *versus* M. RAMASUBBA REDDY

Code of Criminal Procedure, 1973; Section 406 - Negotiable Instruments Act, 1881; Section 138 - Transfer Petition filed by a woman-accused seeking transfer of cheque bounce complaint - A complaint under Section 138 cannot be transferred as per the convenience of the accused - Being a woman and senior citizen, she can always seek exemption from personal appearance - Directed Trial Judge to favourable consider application if made by the petitioner for grant of exemption - The Trial Judge shall compel the petitioner to appear only when her presence is absolutely mandatory for the conduct of the trial.

For Petitioner(s) Mr. Ashwin Kotemath, Adv. (V.C.) Mr. Harisha S.R., AOR

ORDER

Heard the learned counsel appearing for the petitioner.

The petitioner is an accused in a complaint filed by the respondent invoking Section 138 of the Negotiable Instruments Act, 1881. A complaint under Section 138 cannot be transferred as per the convenience of the accused. However, the petitioner is a woman and a senior citizen. Therefore, she can always seek exemption from personal appearance. If an application is made by the petitioner for grant of exemption, the learned trial Judge shall favorably consider the same. The Trial Judge shall compel the petitioner to appear only when her presence is absolutely mandatory for the conduct of the trial. Subject to the above direction, the transfer petition is dismissed.

Pending application(s), if any, shall stand disposed of.

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