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**NC: 2023:KHC-K:8418**  
**CRL.P No. 200690 of 2023**  
**C/W CRL.P No. 200697 of 2023**

**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 6<sup>TH</sup> DAY OF NOVEMBER, 2023**

**BEFORE**

**THE HON'BLE MR. JUSTICE K NATARAJAN**

**CRIMINAL PETITION NO. 200690 OF 2023 (407)**

**C/W**

**CRIMINAL PETITION NO. 200697 OF 2023 (407)**

**IN CRL.P.NO.200690/2023**

**BETWEEN:**

RENUKA YAMUNAPPA GOLASANGI

...PETITIONER

(BY SRI. YASHAS S. DIKSHIT, ADVOCATE)

**AND:**

MOHAN S/O RAM NAIK

...RESPONDENT

(BY SRI. C.A. SUGOOR, ADVOCATE)

Digitally  
signed by B  
NAGAVENI  
Location: High  
Court Of  
Karnataka



**NC: 2023:KHC-K:8418**  
**CRL.P No. 200690 of 2023**  
**C/W CRL.P No. 200697 of 2023**

THIS CRIMINAL PETITION IS FILED UNDER SECTION 407 OF CR.P.C., PRAYING TO TRANSFER C.C.NO.62/2020 ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC, SAGARA, TO PRINCIPAL CIVIL JUDGE AND JMFC, VIJAYAPURA.

**IN CRL.P.NO.200697/2023**

**BETWEEN:**

RENUKA YAMUNAPPA GOLASANGI  
W/O R.N.KADASIDDESWARA MATH  
AGED ABOUT 50 YEARS  
OCC: PRIMARY SCHOOL TEACHER  
R/O BASAVANA GUDI  
KANAMADI, KANAMADI POST  
DISTRICT: VIJAYAPURA-586114.

...PETITIONER

(BY SRI. YASHAS S. DIKSHIT, ADVOCATE)

**AND:**

MOHAN S/O RAM NAIK  
AGE: 35 YEARS  
OCC: DAILY WAGE WORKER  
R/O LOHIYA NAGAR, JOG ROAD  
TQ. SAGAR  
DISTRICT SHIVAMOGGA-577401.

...RESPONDENT

(BY SRI. C.A.SUGOOR, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 407 OF CR.P.C., PRAYING TO TRANSFER C.C.NO.63/2020 ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC, SAGARA, TO PRINCIPAL CIVIL JUDGE AND JMFC, VIJAYAPURA.

THESE PETITIONS COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:



**ORDER**

These petitions are filed by the petitioner-accused under Section 407 of Cr.P.C., seeking transfer of case in C.C.Nos.62/2020 and 63/2020 pending on the file of Principal Civil Judge and JMFC, Sagara to the Court of Principal Civil Judge and JMFC, Vijayapura.

2. Heard learned counsel for the petitioner and the learned counsel for the respondent.

3. Learned counsel for the petitioner submits that the respondent filed complaints under Section 200 of Cr.P.C., for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, which are pending on the file of Principal Civil Judge and JMFC, Sagara. He submits that the petitioner is presently working at Vijayapura District as school Teacher on contract basis and being a woman, she is unable to travel for 400 kilometers from Kanamadi to Sagara. Apart from that, her husband is suffering from serious



illness and he is unable to walk and as such, she has to look after her husband. Such being the case, it is not possible for the petitioner to travel for two days to attend the case at Sagara Court. Therefore, he prayed for allowing the petitions and for transferring the cases from the Court of Sagara to the Court of Vijayapura.

4. Learned counsel for the respondent objected the petitions and contended that the respondent has lent money to the petitioner and the cheques issued by the petitioner towards repayment of the amount were dishonored. As such, the complainant filed complaints before the Court at Sagara. Therefore, the petitioner has to face the trial before the Court at Sagara. The respondent cannot travel to Vijayapura for attending his case. Hence, he prayed for dismissal of the petitions. He relied upon the decisions of the Hon'ble Supreme Court and the Co-ordinate Bench of this Court.



5. Having heard learned counsel for the parties and on perusal of the records, it reveals that the cheques which are in dispute has been issued by the accused to the complainant. When the same was presented by the complainant before Karnataka Gramin Bank, Sagara, where the complainant is having Account, the same came to be dishonoured. After issuance of notice, the complaints under Section 200 of Cr.P.C., for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, have been filed by the respondent which are admittedly pending before the Principal Civil Judge and JMFC, Sagara. It is the case of the petitioner that she is residing at Kanamadi in Vijayapura District and she has to take care of her husband who is suffering from serious illness. The petitioner is required to travel for one day from Kanamadi to Sagara and one day for returning back. Hence, it is not possible for her to attend the cases at Sagara Court.



6. Perusal of the records would indicate that the complaints are filed before the Court at Sagara. If the said cases are transferred to the Court of JMFC, Vijayapura, the complainant is required to appear before the Magistrate at Vijayapura, on every date of hearing and if he fails to appear, the possibility of the learned Magistrate dismissing the complaints and acquitting the accused under Section 256 of Cr.P.C., is not ruled out. If the cases are transferred to Vijayapura, the complainant would be put to more trouble and irreparable loss. The accused had issued cheques which came to be dishonoured and therefore, she is required to face the trial before the Court at Sagara. In similar circumstances, the Hon'ble Supreme Court in the case of ***S.Nalini Jayanthi vs. M.Ramasubba Reddy*** reported in ***2022 Live Law (SC) 880***, held that merely because the accused is a Senior Citizen and a woman, she cannot seek for transfer of the case from one Court to another



Court. However, she can seek for exemption from personal appearance.

7. Considering the same, I am of the view that it is not necessary for the accused to attend the Court on every date of hearing. The Advocate for the accused can represent the case. The petitioner can seek exemption by filing application under Section 317 of Cr.P.C., as the identity of the petitioner is not in dispute. The presence of the accused-petitioner before the Court is not necessary except while framing charge/recording plea or recording statement under Section 313 of Cr.P.C. On the other hand, if the complainant remains absent on hearing dates, there is likelihood of dismissing the complaints under Section 256 of Cr.P.C. Such being the case, the petitioner has not made out a case for transfer of the cases in C.C.Nos.62/2020 and 63/2020 from the Court of Principal Civil Judge and JMFC,



Sagara, to the Court of Principal Civil Judge and JMFC,  
Vijayapura.

8. Accordingly, the petitions are ***dismissed***.

9. However, if the petitioner files application seeking exemption from personal appearance before the Court, the learned Magistrate shall consider the same. Whenever, the presence of the petitioner is required, she has to appear before the Court.

**Sd/-**  
**JUDGE**

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List No.: 1 SI No.: 27