

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CNR No: PHHC011233882026

2026:PHHC:109704



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CRM-M-41656-2026 (O&M)
Date of decision : 14.08.2026

Keshav Kumar

... Petitioner

Versus

Vishal Khullar

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Chandan Singh, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The prayer made in the present petition is for setting aside the order dated 16.07.2026 passed by the learned Sessions Judge, Chandigarh in Transfer Application No. TA-CRL-17-2026, whereby the application filed by the petitioner seeking transfer of complaint cases bearing NACT No.2454/2022 and NACT No.2449/2022, titled “***Keshav Kumar and another versus Vishal Khullar***”, under Section 138 of the Negotiable Instruments Act, 1881 (*for short* ‘N. I. Act’) from the Court of learned Judicial Magistrate First Class, Chandigarh to any other Court of competent jurisdiction, was dismissed. The petitioner further seeks transfer of the aforesaid complaint cases to any other Court of competent jurisdiction.

2. Brief facts of the case are that the petitioner is the complainant in the aforesaid two complaint cases pending before the Court of learned Judicial

Magistrate First Class, Chandigarh. The petitioner claims to have developed a reasonable apprehension that he would not receive a fair and impartial trial before the learned Trial Court. The said apprehension is primarily based upon certain orders and proceedings which took place during the stage of defence evidence. It is the case of the petitioner that during the defence evidence, the respondent-accused had summoned one Shri Gurpreet Singh, DSP, Special Branch and Crime Intelligence, District SAS Nagar, Mohali, as DW-2. On 14.11.2025, the said witness appeared before the Trial Court and stated that he was not in possession of the documents sought from him. Thereafter, the respondent-accused made a statement giving up the said witness. According to the petitioner, despite the witness having been given up, an application was subsequently moved on behalf of the respondent-accused for summoning the same witness again. The petitioner objected to the same. The Trial Court, however, allowed the request and the witness was subsequently examined. The petitioner challenged the said course of action by filing a protest/objection application, which was dismissed by the Trial Court vide order dated 02.12.2025.

3. As further discernible from the record, the above named witness thereafter appeared and was cross-examined by learned counsel for the petitioner on 09.06.2026. The grievance of the petitioner is that during such cross-examination, several questions relating to the enquiry conducted by DW-2 and the enquiry report prepared by him were disallowed by the learned Trial Court. According to the petitioner, the said questions were material for testing the veracity of the witness and for bringing out the truth regarding the enquiry

report. On the basis of the aforesaid sequence of events, the petitioner approached the learned Sessions Judge seeking transfer of the complaint cases. The learned Sessions Judge, after considering the matter, dismissed the transfer application vide order dated 16.07.2026. Aggrieved thereof, the petitioner has filed the present petition.

4. Learned counsel for the petitioner has argued that he has a genuine and reasonable apprehension that he would not receive a fair and impartial trial before the learned Trial Court. It is argued that the apprehension is not based upon any personal allegation against the Presiding Officer but arises from the cumulative effect of the orders and proceedings which have taken place during the trial. Learned counsel submits that the respondent-accused had initially given up DW-2, namely Shri Gurpreet Singh, but subsequently sought his re-summoning. The application for summoning the witness again was allowed by the learned Trial Court without affording proper opportunity to the petitioner to oppose the same. It is argued that the subsequent dismissal of the petitioner's objection vide order dated 02.12.2025 further aggravated the petitioner's apprehension. Learned counsel further submits that when DW-2 was subsequently cross-examined on 09.06.2026, material questions relating to the enquiry conducted by him and the enquiry report forming the basis of his testimony were disallowed by the learned Trial Court. It is argued that such restriction deprived the petitioner of an effective opportunity to test the testimony of the witness and caused prejudice to his case.

5. It is further argued by learned counsel for the petitioner that the aforesaid events create a reasonable apprehension that the proceedings shall not be conducted in a fair and impartial manner before the learned Trial Court. Learned counsel submits that the petitioner is not seeking transfer merely on account of an adverse order but on account of a continuous pattern of conduct which, according to him, has shaken his confidence in the impartiality of the learned Trial Court. With these broad submissions, it is urged that the petition deserves to be allowed, the impugned order is liable to be set aside and the aforesaid complaint cases deserves to be transferred to any other Court of competent jurisdiction.

6. This Court has heard the submissions advanced by learned counsel for the petitioner, besides going through the material placed on record.

7. The prayer of the petitioner for transfer of aforementioned cases is primarily based upon the orders passed by the learned Trial Court with regard to DW-2 and the grievance of the petitioner regarding disallowing of certain questions during his cross-examination. It is not in dispute that DW-2 was ultimately examined and was also cross-examined by learned counsel for the petitioner. The learned Sessions Judge has also taken note of the cross-examination and the questions put to the witness. The mere fact that the respondent-accused had earlier given up the witness and subsequently sought his examination again and that the learned Trial Court permitted the same, cannot by itself be treated as sufficient material to establish bias on the part of the Presiding Officer. The Court is required to examine whether the circumstances give rise to a reasonable and well-founded apprehension that the

petitioner would not receive a fair trial, and not merely whether some orders passed during the proceedings were to the liking of the petitioner. Similarly, the grievance regarding disallowing of certain questions during cross-examination cannot, by itself, constitute a ground for transfer of the entire case. The record shows that the witness was cross-examined and the learned Sessions Judge, after looking into the cross-examination and the questions put to the witness, did not find sufficient ground to infer any partiality on the part of the learned Trial Court. It is also relevant that if the petitioner was aggrieved by any particular order passed by the learned Trial Court, the appropriate remedy was to challenge such order in accordance with law. The learned Sessions Judge has rightly noticed that the remedy against an interlocutory order cannot ordinarily be substituted by seeking transfer of the entire proceedings.

8. This Court also finds that the learned Sessions Judge considered the relevant material, including the report submitted by the learned Trial Court, the cross-examination of DW-2, the questions put to the witness and the conduct of the parties. Upon such consideration, the learned Sessions Judge found no sufficient basis for transferring the cases. The apprehension expressed by the petitioner, therefore, appears to be founded primarily upon his dissatisfaction with certain orders passed during the course of trial. Such dissatisfaction, without any cogent material showing actual bias or a reasonable likelihood of denial of a fair trial, cannot be made the basis for transferring a case from one competent Court to another. Consequently, this Court finds no ground to interfere with the order dated 16.07.2026 passed by

the learned Sessions Judge, Chandigarh. The petitioner has failed to make out any case warranting transfer of the complaint cases. Accordingly, the present petition is dismissed. The order dated 16.07.2026 passed by the learned Sessions Judge, Chandigarh is upheld. The learned Trial Court shall proceed with the complaint cases in accordance with law.

14.08.2026

Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No