IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3266 OF 2014

Smt. Aditi Jaiswal ..Petitioner

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. Devasis Mitra a/w. Priyanka Shetty i/b. Legal Assistance for the Petitioner.
Mr.Manish Bohra a/w. Swapnila Rane i/b. Kachwaha & partners, for the Respondent no.2.
Mr. U.H.Ramugade, APP for the State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 19, 2015.

P.C.

1. The petitioner- accusd no.2 in C.C.No. 2916/SS/2011 pending on the file of the learned Addl. Chief Metropolitan Magistrate's 33rd Court, Ballard Pier, Mumbai, has challenged the order dated 23.10.2013 whereby the learned Sessions Judge dismissed the Criminal Revision Application No. 852 of 2013 challenging the issuance of process under Sectin 138 of the Negotiable Instruments Act.

2. The respondent no.2-complainant had initiated proceeding under Sectin 138 of the Negotiable Instruments Act for dishonour of cheque no.041007 for Rs.50,00,000/-. By order dated 28.2.2012 the learned

Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai issued process under Section 138 of the Negotiable Instruments Act. The petitioner filed revision application challenging the order of issuance of process mainly on the ground of territorial jurisdiction. The revision application was dismissed by order dated 23.10.2013. Dismissal of the said revision application has led to filing of the present petition.

3. It may be mentioned that Section 142 of N.I.act has been amended by the Ordinance No.6 of 2015 dated 15.6.2015, and by second ordinance No.7 of 2015 dated 22.09.2015, which reads as under :

> ***"142. (2)*** *The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction, –*
> *(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or*
> *(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.*
>
> *Explanation – For the purpose of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account."*

> "**142A. (1)** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases arising out of section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of section 142 as if that sub-section had been in force at all material times.
>
> (2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.
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> (3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142 before which the first case was filed and is pending, as if that sub-section had been in force at all material times."

4. In the light of the said amendment it is evident that the payee or the holder of the cheque can file a case under Section 138 of the Negotiable Instruments Act in a Court at the place where the bank in which the payee

has an account, is located. The ordinance further provides that all such cases which are pending as on 15th June, 2015 in different courts in India would stand transferred to the court which has jurisdiction over the place where the bank of the payee is located. If there are multiple cheques bouncing cases pending between the same parties as on 15th June, 2015 then all such multiple cases will be transferred to the court where the first case has jurisdiction.

5. In the instant case, it is not in dispute that the payee had deposited the cheque with M/s. Development Bank of Singapore Ltd. at Mumbai. Hence, in the light of the said amended provision of Section 142 of the Negotiable instruments Act, the Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai will have jurisdiction to try the said case. Under the circumstances, the petition has no merit and is hereby dismissed.

(ANUJA PRABHUDESSAI, J.)