

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4207 OF 2014

Mr. Sidhharth Chandra

...Petitioner

Versus

D.S.K. Digital Technologies Pvt. Ltd.
& Anr.

...Respondents.

.....

Mr. M.M. Badgujar for the Petitioner.
Mr. N.V. Bhutekar for Respondent No.1
Mr. Rajesh More, APP for Respondent No. 2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 2nd SEPTEMBER, 2015.

P. C. :

Rule. By consent of the parties, Rule made returnable forthwith.

2. The Petitioner is the accused in S.C.C. No. 434121 of 2010 filed under section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the Act'). The Petitioner/accused had challenged the jurisdiction of J.M.F.C., Pune, to try the said case mainly on the ground that the entire transaction was initiated and concluded in Delhi. Said application was rejected by the learned Magistrate vide order dated 5th September, 2011. The revision application filed against the said order

being Criminal Revision Application No.568 of 2011 was also rejected by the Sessions Court, Pune, by order dated 3rd July, 2013.

3. It is not in dispute that the cheque in question was presented for clearance in the Bank at Pune. It is pertinent to note that in view of section 142 as amended by the Negotiable Instruments Act (Amendment) by ordinance dated 15th June, 2015, which is still in force can be read as under :

“3. Amendment of Section 142. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(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 purposes 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.”.

4. As per the amended provision, the offence under section 138 of the Act has to be enquired and tried only by the Court which is

covered by clauses (a) and (b) of section 142 of the Act. As stated earlier, in the present case the Petitioner maintains account in a bank at Pune and cheque was presented for clearance in the said bank within the territorial jurisdiction of J.M.F.C., Pune. Hence, learned J.M.F.C., Pune has jurisdiction to enquire into and try the said offence.

5. In the circumstances, the criminal writ petition has no merits, and is hereby dismissed. Rule is hereby discharged.

(ANUJA PRABHUDESSAI, J.)