

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

Crl.Rev.Pet.No. 664 of 2015

AGAINST THE ORDER IN CMP 403/2015 of ADDITIONAL CHIEF
JUDICIAL MAGISTRATE'S COURT (E&O), ERNAKULAM DATED
27-02-2015.

REVISION PETITIONER(S)/COMPLAINANT) :

T.N.MENON, ANURADHA, R. MADHAVAN NAIR ROAD,
COHCIN-682 016.

BY ADVS.SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN
SRI.NELSON JOSEPH
SRI.M.D.JOSEPH

RESPONDENT(S)/ACCUSED:

1. M/S.NEESA LEISURE LIMITED,
CAMBAY SQUARE, PLOT NO.X-22-24,
GIDC ELECTRONIC ESTATE SECTION-25,
OPP. HILL WOOD SCHOOL,
GANDHI NAGAR-382 044, GUJARAT.
2. MANOJ SINGL,
MANAGING DIRECTOR,
M/S.NEESA LEISURE LIMITED,
CAMBAY SQUARE, PLOT NO.X-22-24,
GIDC ELECTRONIC ESTATE SECTION-25,
OPP. HILL WOOD SCHOOL,
GANDHI NAGAR-382 044, GUJARAT.

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3. KAMALENDRA JOSHI,
VICE PRESIDENT - FINANCE & ACCOUNTS
AND COMPLIANCE OFFICER,
M/S.NEESA LEISURE LIMITED,
CAMBAY SQUARE, PLOT NO.X-22-24,
GIDC ELECTRONIC ESTATE SECTION-25,
OPP. HILL WOOD SCHOOL,
GANDHI NAGAR-382 044, GUJARAT.
4. STATE OF KERLA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R4 BY PUBLIC PROSECUTOR SRI. JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 08-06-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No.664 of 2015

Dated this the 8th day of June, 2015

ORDER

The revision petitioner is the complainant in C.M.P.No.403 of 2015 on the files of the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam. The above complaint was filed alleging the offence punishable under Sec.138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') against the respondents 1 to 3 herein. The allegation in the complaint is that the cheque, which was drawn on the account maintained by the accused in the Axis Bank Ltd., Gandhi Nagar Branch, Gujarat, and payable at any Branch of the said Bank, was presented for encashment in the Ravipuram Branch,

Ernakulam, of the said Bank and got dishonoured and returned for want of sufficient fund and thereby the respondents 1 to 3 have committed the offence punishable under Sec.138 of the N.I. Act. The said complaint was filed before the court which passed the impugned order on the reason that the cause of action has arisen at Ernakulam, the place where the said cheque was dishonoured for want of sufficient fund. But the court below, after hearing the petitioner as regards the territorial jurisdiction of the complaint, returned the said complaint for filing in the proper court at Gandhi Nagar, Gujarat, on the finding that the court below has no territorial jurisdiction to entertain and try the complaint, in view of the decision in *Dashrath Rupsingh Rathod v. State of Maharashtra* [2014 (3) KLT 605 (SC)]. The legality of the finding whereby the court below returned the complaint is under challenge in this revision petition.

2. Heard the learned counsel for the revision petitioner. The learned counsel drew my attention to

the above decision and contended that the cheque, in question, is an 'at par cheque' payable at any Branch of the Axis Bank and in the instant case, the cheque was presented in the Ravipuram Branch and got dishonoured from there.

3. Going by the impugned order, it is seen that the complaint has been returned on the finding that since the cheque had been drawn on the Axis Bank, Gandhi Nagar Branch, Gujarat, the said Bank alone has jurisdiction to try the complaint in view of the decision in *Dashrath Rupsingh Rathod v. State of Maharashtra* [2014 (3) KLT 605 (SC)].

4. As rightly submitted by the learned counsel for the revision petitioner, according to the decision in *Dashrath Rupsingh Rathod v. State of Maharashtra* [2014 (3) KLT 605 (SC)], the cause of action of the complaint under Sec.138 of the N.I. Act arises in the place where the dishonour occurred and the court below within whose jurisdiction dishonour occurred has the territorial jurisdiction to entertain and try the

complaint. In the instant case, indisputably, the dishonour of the cheque for want of sufficient fund occurred at Ernakulam, a place within the jurisdiction of the court which passed the impugned order under challenge.

5. Therefore, I find that the court below has jurisdiction to try the complaint filed by the petitioner and the impugned order is liable to be set aside and I do so. The learned Magistrate is directed to restore the complaint on the files and proceed in accordance with law.

This revision petition is disposed of accordingly.

Sd/-
(K. HARILAL, JUDGE)

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P.S. to Judge