

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.44 of 2015

ORDER :

The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the docket order dated 05.12.2014 passed by the Additional Judicial Magistrate of First Class, Vizianagaram in C.C.No.91 of 2014.

Heard both sides and perused the material on record.

The facts in issue are as under:

The respondent No.1 herein filed a private complaint on 19.07.2013 against the petitioner herein/accused for an offence punishable under Section 200 Cr.P.C. and Sections 138 and 142 of the Negotiable Instruments Act, 1881. The petitioner/accused filed a petition on 19.11.2014 under Section 177 of Cr.P.C questioning the jurisdiction of the Court in trying C.C.No.91 of 2014, in view of the judgment of the Apex Court in **Dashrath Rupsingh Rathod v. State of Maharashtra and another**^[1]. The said application was dismissed on the ground that the said judgment has no application to the case, since the trial in the said case has already commenced. Challenging the same, the present revision case is filed.

Learned counsel for the revision petitioner submitted that the drawee bank i.e. Indian Overseas Bank is situated at Satyanarayanapuram, Chintalavalasa, which is Padmanabham Mandal of Visakhapatnam District within the jurisdiction of the Bhimunipatnam and the cheque was drawn on Indian Overseas Bank, Satyanarayanapuram, Chintalavalasa, Vizianagaram District. Therefore, the learned Magistrate has no jurisdiction to entertain the present case.

Learned counsel for the first respondent opposed the same. It is submitted that though the private complaint for the offence punishable under Sections 138 and 142 of N.I.Act was filed on 19.07.2013 and petition on 19.11.2014, but by that time, the trial in the said case had already been commenced and Chief Affidavit of the complainant was also filed. In para 22 of the judgment, the Apex Court in Dashrath's case supra held as under:-

“However, keeping in perspective the hardship that this will continue to bear on alleged accused/respondents who may have to travel long distances in conducting their defence, and also mindful of the legal implications of proceedings being permitted to continue in a Court devoid of jurisdiction, this recourse in entirety does not commend itself to us. Consequent on considerable consideration we think it expedient to direct that only those cases where, post the summoning and appearance of the alleged Accused, the recording of evidence has commenced as envisaged in Section 145(2) of the Negotiable Instruments Act, 1881, will proceeding continue at that place. To clarify, regardless of whether evidence has been led before the Magistrate at the pre-summoning stage, either by affidavit or by oral statement, the Complaint will be maintainable only at the place where the cheque stands dishonoured. To obviate and eradicate any legal complications, the category of Complaint cases where proceedings have gone to the stage of Section 145(2) or beyond shall be deemed to have been transferred by us from the Court ordinarily possessing territorial jurisdiction, as now clarified, to the Court where it is presently pending. All other Complaints (obviously including those where the accused/respondent has not been properly served) shall be returned to the Complainant for filing in the proper Court, in consonance with our exposition of the law. If such Complaints are filed/refiled within thirty days of their return, they shall be deemed to have been filed within the time prescribed by law, unless the initial or prior filing was itself time barred.

In view of the above and as trial in the said case has already commenced, I do not find any reasons to transfer the case and interfere with the order passed by the trial Court.

Accordingly, the revision case is dismissed. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

02.03.2015
kvrm

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE NO.44 of 2015

DATE: 02.03.2015

kvrn

[\[1\]](#) (2014) 9 SCC 129