

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-20765 of 2015
Date of decision:1.7.2015

Dipesh Kumar Sikka

.....Petitioner(s)

Versus

Shri Manoj Singhal & anr.

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

*** * ***

Present: Mr. Rajinder Goyal, Advocate for the petitioner(s).

DARSHAN SINGH, J.

The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C') for setting aside the order dated 18.3.2015 passed by the learned Judicial Magistrate, 1st Class, Kaithal vide which the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act against the respondents was ordered to be returned for filing the same in the proper Court. It has been prayed that directions should be issued to the learned Judicial Magistrate to entertain and try the complaint in the Court at Kaithal.

Learned counsel for the petitioner contended that in view of the ordinance No.6 of 2015 i.e. The Negotiable Instruments (Amendment) Ordinance 2015 which is retrospective in operation, the complaint instituted by the petitioner was triable at Kaithal. He contended that while exercising the inherent powers under Section 482 Cr.P.C., this Court in the interest of justice should quash the impugned order and direct the learned Judicial Magistrate at Kaithal to entertain and try the petition in view of the

amended provisions of Section 142 and 142-A of the Act vide aforesaid ordinance.

I have duly considered the aforesaid contentions.

The perusal of the impugned order dated 18.3.2015 shows that the aforesaid complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act, 1881, has been ordered to be returned for filing the same in the proper Court within a period of 30 days by the learned Judicial Magistrate, Kaithal in view of the directions issued by the Hon'ble Apex Court in case **Dasrath Rupsingh Rathod versus State of Maharashtra 2014 (3) Law Herald (P&H) 2697(SC)**. A period of more than 30 days had already expired from the date of passing of the impugned order dated 18.3.2015. Admittedly, the petitioner has not filed the complaint within the stipulated period of 30 days before the proper Court as directed by the learned Judicial Magistrate. So, the petitioner cannot take the help of amended provisions of the Act vide the ordinance referred above as, as on today, legally no complaint filed by the petitioner is in existence. Consequently, no directions under Section 482 Cr.P.C. can be given.

Thus, in view of my aforesaid discussion, the present petition has no merits and the same is hereby dismissed.

July 01, 2015
ps

(DARSHAN SINGH)
JUDGE