

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-33848 of 2014

Date of decision : September 14, 2015

M/s Sai Deep Traders

..... Petitioner

Versus

Shree Gusaiji Traders and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner

Mr. S.K. Bokolia, Advocate
for the respondents

ANITA CHAUDHRY, J.(ORAL)

The petitioner has approached this Court under Section 482 Cr.P.C. for setting aside the order dated 02.09.2014 passed by JMIC Amritsar vide which trial Court relying upon ***Dashrath Rupsingh Rathod's case*** has returned the complaint for presentation of the complaint in the Courts at Delhi.

At the time of admission, learned counsel for the petitioner had urged that the cheque was at par and the Bombay High Court had held that the cheques which are payable at par were to be treated differently and the judgment of the Bombay High Court had been challenged in the Apex Court and the SLP was dismissed.

The operation of the impugned order had been stayed.

I have heard both the sides.

Learned counsel for the petitioner states that vide an

Ordinance the Government has amended the Negotiable Instruments Act and the complaint can be filed in the Court in whose local jurisdiction the cheque is delivered for collection where the payee or the holder maintains the account. Counsel urges that all the pending complaints would stand transferred and the order of the trial Court be set aside.

Learned counsel appearing for the respondents does not dispute that by an ordinance the Government has amended the Negotiable Instruments Act. It is not disputed that the amendment has been notified.

In view of the amendment, Section 142 has been amended and sub section (1) has been re-numbered and sub section (2) has been added which reads as under:-

“(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 accounts.”*

Section 142A has been inserted which provides that all cases arising out of Section 138 of the Negotiable Instruments Act which were pending in any Court, whether filed before it or were transferred to it before the commencement of 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.

In view of this being the position, the order passed by the Magistrate is set aside.

The parties are directed to appear before the Court below on 28.09.2015.

The petition is allowed.

September 14, 2015

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**(ANITA CHAUDHRY)
JUDGE**