

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-No. 41124 of 2014

Date of decision: September 29, 2015

M/s. Mohindra Engineering Works

----Petitioner(s)

V/s

Chamkaur Singh

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. H.P.S. Ghuman, Advocate for the petitioner.

None for the respondent.

HARI PAL VERMA, J. (Oral)

Petitioner has filed the present petition under Section 482 Cr.P.C for quashing of the order dated 20.09.2014 (Annexure P-1) passed by the Sub Divisional Judicial Magistrate Nabha in complaint No.100 dated 04.04.2014, titled as "M/s. Mohindra Engineering Works Vs. Chamkaur Singh, whereby the complaint filed by the complainant under Section 138 of Negotiable Instruments Act, 1881 (for brevity "the Act") has been ordered to be returned to enable him to file before the Court of competent jurisdiction. The said order has been passed in the light of the judgment passed by Hon'ble Apex Court in "*Dashrath Rup*

Singh Rathod Vs. State of Maharashtra and another, 2014(3) RCR (Crl.) 904.

As per office report, service is complete, but no one has put in appearance on behalf of the respondent.

Heard.

Learned counsel for the petitioner submits that though the complaint was ordered to be returned to the complainant in view of the judgment *“Dashrath Rup Singh Rathod's case (supra)”* for its presentation before the competent Court of its jurisdiction. However, subsequent in the aforesaid judgment, the Ministry of Law and Justice (Legislative Department) issued the Negotiable Instruments (amendment) Ordinance, 2015 (for brevity “Ordinance, 2015”), which came into force on 15th June, 2015.

The aforesaid ordinance carried out the amendment in Section 142 of the Act, which reads as under:-

3. 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.”

A perusal of the aforesaid provision transpires that after issuance of the Ordinance, 2015, offence under Section 138 of the Act shall be inquired into and tried only by a Court within whose local jurisdiction, 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 if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of drawee bank where the drawer maintains the account, is situated. The aforesaid amendment appears to have been carried out to overcome the judgment captioned as **Dashrath Rup Singh Rathod's case (supra)**

Learned counsel for the petitioner has relied on a judgment passed by this Court in *CRM No. M-6308 of 2015*, decided on 04.08.2015 titled as “**The Patiala Central Co-operative Bank Ltd. Vs. Seema,** to contends that effect of the judgment had been taken away by the Ordinance, 2015.

In view of the aforesaid position, as well as the facts and amendment, the impugned order is, therefore, not sustainable in the eyes of law. Accordingly, the present petition is allowed and impugned order dated 20.09.2014 (Annexure P-1) passed by the Sub Divisional Judicial Magistrate Nabha passed in complaint No.100 dated 04.04.2014 is

quashed and the trial Court is directed to proceed with the aforesaid complaint in the light of the Ordinance, 2015.

September 29, 2015
Anjal

[HARI PAL VERMA]
JUDGE