

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

CRM-M-42953 of 2014.

Decided on:-19.12.2015.

Varun Guglani.

.....Petitioner.

Versus

Amit Kumar.

.....Respondent.

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. Saurabh Singla, Advocate for
Mr. Parvez Chugh, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C for quashing of the order dated 11.11.2014 (Annexure P-7) passed by learned Sub-Divisional Judicial Magistrate, Jalalabad (West) in complaint case No.49-2 dated 27.3.2014 titled as “Varun Guglani Versus Amit Kumar”, 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 the complainant to file the same before a 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***

Versus State of Maharashtra and another 2014(3) RCR (Criminal) 904.

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 a Court of competent jurisdiction. However, subsequent to the aforesaid judgment, the Ministry of Law and Justice (Legislative Department) issued the Negotiable Instruments (amendment) Ordinance, 2015 (for brevity “the Ordinance, 2015”), which came into force on 15th June, 2015.

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.

Heard.

The Ordinance, 2015 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)***.

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 11.11.2014 (Annexure P-7) passed by learned Sub-Divisional Judicial Magistrate, Jalalabad (West) in complaint case No.49-2 dated 27.3.2014 is quashed and the trial Court is directed to proceed with the aforesaid complaint in the light of the Ordinance, 2015.

December 19, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE