

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. M- No. 441 of 2015 (O&M)

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Date of decision : 07.01.2015

Mohd. Jamil

.....Petitioner

Versus

Ajay Kumar and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mohd. Yousaf, Advocate
for the petitioner.

LISA GILL, J.

The petitioner had filed compliant No. 413 dated 03.11.2011 under Section 138 of Negotiable Instruments Act, before the Court of Sub Divisional Judicial Magistrate, Malerkotla. The said complaint was returned vide order dated 08.12.2014 (Annexure P-3) in view of the judgment of **Dashrath Rup Singh Rathod versus State of Maharashtra and another**, Crl. Appeal No. 2287 of 2009 decided on 01.08.2014, while observing that the said court had no jurisdiction to try the present complaint. The complaint was returned for filing the same before the court of competent jurisdiction within 30 days from the date of return.

It is averred that the petitioner approached the court of learned Judicial Magistrate First Class/Illaqa Magistrate, Ludhiana as the cheque in question was dishonoured by the IDBI Bank, at its Branch at Kalinga Towers, Ludhiana. However, the complaint was not entertained and the concerned Clerk of the Court refused to accept the same or enter it in the concerned register.

It is in this situation that the petitioner has approached this Court praying that a direction be issued to the concerned JMIC/ Illaqa Magistrate to entertain the complaint as the Clerk of the Court is not entitled to decide as to whether the complaint is to be accepted or not. In fact, the matter was never placed before the concerned Court. The Court was never seized of the matter.

Keeping in view the facts and circumstances of the case, this petition is disposed of that in case, the petitioner moves or files the said complaint within a period of ten days from receipt of certified copy of this order, the concerned JMIC/Illaqa Magistrate, Ludhiana shall look into the matter and take appropriate action in accordance with law. It is clarified that the trial Court is at liberty to decide whether it is the court of competent jurisdiction to entertain this complaint or not. None of the observations made herein above shall be a reflection on the merits of the case.

The present petition is, accordingly, disposed of.

January 07, 2015
rts

(LISA GILL)
JUDGE