

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : August 04, 2015

1. CRM No. M- 6308 of 2015

The Patiala Central Co-operative Bank Ltd.

...Petitioner...

versus

Seema

...Respondent...

2. CRM No.M-6237 of 2015

The Patiala Central Co-operative Bank Ltd.

...Petitioner...

versus

Deepak

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Harvinder Pal Singh Ghumman, Advocate
for the petitioner(s).

None for the respondent(s).

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

JASPAL SINGH, J.

By virtue of this common judgment, this Court intends to
dispose of aforesaid two petitions i.e CRM No. M-6308 of 2015,
captioned as ***“The Patiala Central Co-operative Bank Ltd. v.***

Seema” and CRM No. M-6237 of 2015, captioned as ***“The Patiala Central Co-operative Bank Ltd. v. Deepak”***.

2. Both these petitions have been preferred under Section 482 of the Code of Criminal Procedure for quashing of order(s) passed by Sub Divisional Judicial Magistrate, Nabha in two separate complaints, whereby complaints filed by complainant(s) under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'Act' only) have been returned for filing before the court of competent jurisdiction.

3. In response to the notice of motion issued, no one has put in appearance on behalf of respondent(s).

4. Heard.

5. Undisputably, keeping in view the judgment passed by Hon'ble Apex Court in ***“Dashrath Rup Singh Rathod v. State of Maharashtra and another”***, 2014 (3) RCR (Crl.) 904, complaint(s) was ordered to be returned to the complainant(s) for its presentation before the competent Court of jurisdiction. Subsequent thereto, Ministry of Law and Justice (Legislative Department) issued the Negotiable Instruments (amendment) ordinance, 2015, which came into force on 15th June, 2015.

6. 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."

7. A glance at the aforesaid provision transpires that after issuance of 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).

8. In view of the discussion narrated above as well as facts and amendment, impugned order(s) is/are not sustainable in the eyes of law. Accordingly, both these petitions are allowed whereby impugned order dated 30.09.2014 passed in Complaint No.213, dated 29.08.2014 as well as order dated 27.10.2014 passed in Complaint No. 222, dated 29.08.2014, are set aside and the trial court is directed to proceed with the aforesaid complaints.

August 04, 2015
sonika

(JASPAL SINGH)
JUDGE