

In the High Court of Punjab and Haryana at Chandigarh

1. Crl. Revision No. 2801 of 2014 (O&M)
Date of decision: 28.9.2015

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

2. Crl. Revision No. 2802 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

3. Crl. Revision No. 2824 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

4. Crl. Revision No. 2825 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

5. Crl. Revision No. 2827 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

6. Crl. Revision No. 2829 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

7. Crl. Revision No. 2832 of 2014 (O&M)

M/s S.G. and Company (P) LimitedPetitioner

Versus

M/s R.K.Engineers (Sitarganj) and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amit Arora, Advocate
for the petitioner(s).

Mr. Adish Gupta, Advocate
for the respondents.

SABINA, J.

Vide this order, above mentioned petitions would be
disposed of as the question of law involved in all the cases is the

same.

Petitioner has challenged the orders dated 19.8.2014 whereby the complaints in question were ordered to be returned to the complainant to be presented before the concerned Court in view of the decision given by the Apex Court in '**Dashrath Rupsingh Rathod versus State of Maharashtra and another' 2014(3) R.C.R (Criminal) 904**'.

Learned counsel for the petitioner has submitted that the trial had already commenced before the Trial Court post summoning of the accused. In support of his arguments learned counsel has placed reliance on '**Dashrath Rupsingh Rathod versus State of Maharashtra and another' 2014(3) R.C.R (Criminal) 904** wherein it was held as under:-

“However, keeping in perspective the hardship that this will continue to bear on alleged accused/respondents who may have to travel long distances in conducting their defence, and also mindful of the legal implications of proceedings being permitted to continue in a Court devoid of jurisdiction, this recourse in entirety does not commend itself to us. Consequent on considerable consideration we think it expedient to direct that only those cases where, post the summoning and appearance of the alleged Accused, the recording of evidence has commenced as envisaged in [Section 145\(2\)](#) of the Negotiable Instruments Act, 1881, will proceeding continue at that place.”

Learned counsel for the petitioner has further submitted that in view of the decision of the Apex Court in *Dashrath Rupsingh Rathod's case (supra)*, the complaints were liable to continue at

Faridabad.

Learned counsel for the respondents, on the other hand, has opposed the petitions and has submitted that in terms of the decision of the Apex Court in *Dashrath Rupsingh Rathod's case* (supra), the complaint was liable to be presented before the Court in whose jurisdiction the cheque had been dishonoured.

Interim order dated 28.5.2014 passed by the Trial Court reads as under:-

“File taken up today. Accused has appeared before the court and requested that he be released on bail. Heard. Offence being bailable. Considering the allegations, punishment prescribed and the trial of the case are likely to take long time, no useful purpose would be served by detaining the accused behind bar. Thus, accused is admitted to bail on furnishing bail bonds and surety bonds of Rs. 40,000/- with one surety in the like amount. Bail bonds and surety bonds furnished, accepted and attested. Accused is hereby released on bail in this case. Original FDR of surety be kept on record.

Heard. From the perusal of the contents of the complainant, preliminary evidence produced on the case file and necessary documents, a prima facie case punishable under Section 138 of Negotiable Instrument Act is made out against the accused. Accordingly, he has been served notice to which he did not plead guilty and claimed trial. After perusing the prima-facie evidence on record it appears that nature of the case is such that sentence of imprisonment for a term exceeding one year

may be imposed upon the accused, therefore, it is undesirable to try the present case summarily. Therefore, the present case be tried as summon trial. Now, to come up on 15.7.2014 the date already fixed for cross examination of complainant.”

Thus, a perusal of the above order reveals that post summoning the recording of evidence had commenced and the case was adjourned on 28.5.2014 for cross-examination of the complainant to 15.7.2014. In view of the decision given by the Apex Court in *Dashrath Rupsingh Rathod's case (supra)*, the trial was liable to continue at Faridabad as post summoning of the accused the recording of evidence had commenced.

Accordingly, all the petitions are allowed. Impugned order dated 19.8.2014 is set aside.

**(SABINA)
JUDGE**

September 28, 2015

Gurpreet