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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: May 25, 2015

+ **CRL.M.C. 3479/2012 & Crl.M.A.Nos.5003/2013, 17334/2012 & 17336/2012**

K.SANDILYA

..... Petitioner

Through: Mr. Sachin Chopra & Mr. Kamal
Bansal, Advocates

versus

ESPN SOFTWARE INDIA P.LTD.

..... Respondent

Through: Ms. Shilpi Gupta, Advocate

+ **CRL.M.C. 3485/2012 & Crl.M.A.Nos.5001/2013 , 17345/2012 & 17347/2012**

K.SANDILYA

..... Petitioner

Through: Mr. Sachin Chopra & Mr. Kamal
Bansal, Advocates

versus

ESPN SOFTWARE INDIA P.LTD.

..... Respondent

Through: Ms. Shilpi Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGEMENT

In the above-captioned two petitions quashing of two complaints under Section 138 of *Negotiable Instruments Act, 1881* relating to cheque amount of ₹10 lac each is sought on the ground that trial court lacks the territorial jurisdiction.

Since both the complaints relate to the same transaction therefore, with the consent of learned counsel for the parties, both the petitions were heard together and are being disposed of by this common judgment.

Learned counsel for petitioner relies upon Apex Court's decision in *Shivgiri Associates v. Metso Mineral (India) Pvt. Ltd* (2014) 12 SCC 366, which has been followed by this Court in Crl.M.C.No.700/2012 *Neerav J. Shah & Ors. v. State & Ors.* decided on 23rd March, 2015. Learned counsel for respondent submits that petitioner was deliberately delaying the proceedings before the trial court and had purposely not cross-examined the respondent-complainant and conduct of petitioner is such, which disentitles petitioner to any discretionary relief from this Court.

Upon hearing and on perusal of complaints in question, material on record and the decisions cited, I find that the question of territorial jurisdiction raised in this petition is squarely covered by the Apex Court decision in *Shivgiri* (supra) followed by this Court in *Neerav J. Shah* (supra). Since cross-examination of respondent-complainant has not commenced, therefore, the complaints in question are required to be returned to respondent-complainant for presentation before the court of competent territorial jurisdiction as the cheques in question were drawn on a bank situated in Vishakapatnam (Andhra Pradesh) and the dishonouring of cheques in question is beyond the territorial jurisdiction of Delhi Courts.

Consequentially, these petitions are disposed of with direction to trial court to return the complaints to respondent-complainant for presentation before the Court of competent territorial jurisdiction within 30 days.

Both the petitions and applications are accordingly disposed of while not touching the merits of the complaints in question.

(SUNIL GAUR)
JUDGE

MAY 25, 2015
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