

CRM No. M-1715 of 2015
DECIDED ON: FEBRUARY 09, 2016

....PETITIONER

.....RESPONDENT

Instant petition has been preferred under Section 482 of the Code of Criminal Procedure by Sumitra Bai seeking quashing of order dated December 17, 2014 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Malout, vide which an application dated November 19, 2014 (Annexure P-2) filed by her for return of the complaint filed under

Section 138 of the Negotiable Instruments Act, 1881 (for short, 'Act') to the competent court of jurisdiction in view of guidelines laid down by Hon'ble Apex Court in the case of ***“Dashrath Rup Singh Rathod v. State of Maharashtra and another”***, 2014 (3) RCR (Crl.) 904, was dismissed.

2. In response to the notice of motion issued, Mr. Sudeep Singh, Advocate appeared and represent the respondent-complainant.

3. Heard.

4. 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 was required to be returned to the complainant 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.

5. 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.”

6. 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).

7. Thus, after the aforesaid amendment, instant petition has been rendered infructuous and as such the same is dismissed.

FEBRUARY 09, 2016
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(JASPAL SINGH)
JUDGE