

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CRM-M-20498 of 2015
Date of Decision: May 02, 2016

The Jai Durga Co-Op Urban(S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Aalok Shrivastwa ...Respondent

(2) CRM-M-15412 of 2015

The Kuber Co-Op Urban(N.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Prahalad Dass Berwa ...Respondent

(3) CRM-M-14523 of 2015

The Jai Durga Co-Op Urban (S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Madan Lal ...Respondent

(4) CRM-M-14524 of 2015

The Shri Shyam Co-Op Urban (N.A.) ...Petitioner
Thrift and Credit Society Limited

Versus

Om Parkash Saini ...Respondent

(5) CRM-M-14526 of 2015

The Shri Shyam Co-Op Urban(N.A.) ...Petitioner
Thrift and Credit Society Limited

Versus

Banwari Lal Gupta ...Respondent

(6) CRM-M-14527 of 2015

The Jai Durga Co-Op Urban (S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Kailash Chand Sharma ...Respondent

(7) CRM-M-14528 of 2015

The Jai Durga Co-Op Urban (S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Shyam Lal ...Respondent

(8) CRM-M-25199 of 2015

The Jai Durga Co-Op Urban (S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Umrav Singh ...Respondent

(9) CRM-M-25200 of 2015

The Jai Durga Co-Op Urban (S.E.) ...Petitioner
Thrift and Credit Society Limited

Versus

Dharam Chand ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Sheena Sood, Advocate
Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Harmandeep Singh Sullar, Advocate
for the respondent (in CRM-M-14526 of 2015).

Mr. Puneet Tuli, Advocate
for the respondent (in CRM-M-25199 of 2015).

FATEH DEEP SINGH, J.

In all the petitions detailed above, since common question of law and facts have arisen and, thus, necessitates for the sake of curbing prolixity, to dispose them off through a common judgment. It is clarified that the facts in the present findings have been extracted out of CRM-M-20498 of 2015.

Petitioner-Jai Durga Co-op Urban Thrift and Credit Society Limited (hereinafter referred to as 'the society') on the allegations that the respondent-accused had taken loan from the complainant and to repay the same on the asking of the complainant had issued a cheque on the assurance and representation that the same shall be honoured. The complainant accepted the same and on presentation of the same to the banker it stood dishonoured and, thereafter, a legal notice was issued and after requisite period a complaint Annexure P/1 was preferred in which the accused was issued summons. The petitioner has sought to assail the impugned orders dated 24.09.2014 by virtue of which the learned trial Court has directed return of the complaint as well as documents in the light of the ratio laid down in **Dashrath Rupsingh Rathod vs. State of Maharashtra and Another Criminal Appeal No.2287 of 2009**. It is against these findings the complainant has come up before this Court.

Consequent upon hearing arguments, the only point

of contention that permeates is as to the very jurisdiction of the Court whether at Hisar where the cheque in question was presented by the complainant and consequently dishonoured or the place where the drawee bank is situate. Learned Court below relying upon **Dashrath Rupsingh Rathod case ibid** and interpreting the provisions of Section 138 of the Negotiable Instrument Act (for short, 'the Act') has held that the place of issuance and delivery of the statutory notice or where the complainant chooses to present the cheque for encashment are not relevant for the purpose of territorial jurisdiction of the complaint under Section 138 of the Act and has drawn the conclusion that since the cheque so drawn on State Bank of Bikaner and Jaipur at Jaipur therefore, the Courts at Jaipur had requisite jurisdiction to entertain and try the present matter. In a subsequent view in the case of **Bridgestone India Pvt. Ltd vs. Inderpal Singh and others 2016 (1) RCR (Civil) 320** Lordships of the Hon'ble Apex Court considered the ratio laid down in **Dashrath Rupsingh Rathod case ibid** and has drawn conclusion as well as considered the provisions of Section 177 Cr.P.C. and it was held that once the cause of action accrues to the complainant the jurisdiction of the Court to try the case will be determined by the place where the cheque is dishonoured. Furthermore, to overcome the ambiguity and legal hurdle in view of ratio laid down in **Dashrath Rupsingh Rathod case ibid** the Negotiable Instrument Act stood amended by the Negotiable Instrument Act, Amendment II Ordinance 2015 and which has come into effect from 15.6.2015 whereby, amended Section 142(2) of this Act as well as Section 142A brings about that the place where the cheque is delivered for collection i.e. branch of the bank of the payee or holder in due course where the drawee maintains an account would be determinative of the place of territorial jurisdiction and it was further held that very provisions of the

Code of Criminal Procedure, 1973 would have been to give way to the newly incorporated provisions by the instant amendment to the Act by virtue of this non-obstante clause in sub-section (1) of Section 142A of the Act. Moreover, being an amendment to procedural law would have retrospective effect on such matters.

Keeping in view this settled position of law by now impugned orders passed by learned Judicial Magistrate 1st Class, Hisar and order passed by learned Sessions Judge, Hisar in all the above captioned petitions do not sustain and are hereby set aside by way of acceptance of instant petitions. The Courts having jurisdiction of the place where the cheque was dishonoured will be competent to try the matter. The cases are, thus, directed to be tried by the Court having jurisdiction at Hisar (Haryana).

In the light of what has been discussed above, all these petitions are thus allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

May 02, 2016
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