

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-No.27365 of 2015

Date of decision: May 23, 2016

M/s. New Friends Industry

----Petitioner(s)

V/s

Sukhdev Singh

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. H.P.S. Ghuman, Advocate for the petitioner.

None for the respondent.

HARI PAL VERMA, J. (Oral)

Petitioner has filed the present petition under Section 482 Cr.P.C for quashing of the order dated 19.11.2014 (Annexure P-1) passed by the Sub Divisional Judicial Magistrate Nabha in Complaint Case No.109T dated 24.10.2013/21.05.2014, titled as "M/s. New Friends Industry Vs. Sukhdev Singh", whereby the complaint filed by the petitioner-complainant under Section 138 of Negotiable Instruments Act, 1881 (for brevity "the Act") has been ordered to be returned to enable him to file the same before a Court of competent jurisdiction.

Learned counsel for the petitioner contends that the said order has been passed in the light of the judgment passed

by Hon'ble Apex Court in **"Dashrath Rup Singh Rathod Vs. State of Maharashtra and another"**, 2014(3) RCR (Crl.) 904. He further submits that though the complaint was ordered to be returned to the complainant in view of the judgment **"Dashrath Rup Singh Rathod's case (supra)"** for its presentation before a Court of competent jurisdiction, however, subsequent to the aforesaid judgment, the Ministry of Law and Justice (Legislative Department) has issued the Negotiable Instruments (amendment) Ordinance, 2015 (for brevity "Ordinance, 2015"), which came into force on 15th June, 2015.

As per office report, service is complete, but no one has put in appearance on behalf of the respondent.

Heard.

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.”

A perusal of the aforesaid provision transpires that after issuance of the 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)**

Learned counsel for the petitioner has relied on a judgment passed by this Court in CRM No. M-6308 of 2015, decided on 04.08.2015 titled as “**The Patiala Central Co-operative Bank Ltd. Vs. Seema,**” to contend that effect of the judgment had been taken away by the Ordinance, 2015.

In view of the aforesaid position, as well as the facts and amendment, the impugned order is, therefore, not

sustainable in the eyes of law. Accordingly, the present petition is allowed and impugned order dated 19.11.2014 (Annexure P-1) passed by the Sub Divisional Judicial Magistrate Nabha in Complaint Case No.109T dated 24.10.2013/21.05.2014, titled as “M/s. New Friends Industry Vs. Sukhdev Singh” is quashed and the trial Court is directed to proceed with the aforesaid complaint in the light of the Ordinance, 2015.

May 23, 2016
Anjal

[HARI PAL VERMA]
JUDGE