

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

CRM-M-No.8920 of 2015

Date of decision: May 27, 2016

M/s. Jalandhar Feed Milla Pvt. Ltd.

----Petitioner(s)

V/s

Harjinder 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. Sandeep Arora, Advocate for the petitioner.

None for the respondent.

HARI PAL VERMA, J. (Oral)

Prayer made in the instant petition filed under Section 482 Cr.P.C. is for quashing of the order dated 05.02.2015 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Jalandhar, whereby Criminal Complaint Case No.344/15 instituted on 04.02.2015, titled as **“M/s. Jalandhar Feed Mills Pvt. Ltd. Vs. Harjinder Singh**, 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 though the impugned order dated 05.02.2015 (Annexure P-1) was passed in view of

the decision of Hon'ble the Apex Court in *“Dashrath Rup Singh Rathod Vs. State of Maharashtra and another”*, 2014(3) RCR (Criminal) 904, but in view of the amended provisions of the Act, the complaint can be presented in the Court within whose jurisdiction the cheque in question was presented for encashment or before the Court within whose jurisdiction, the bank of the drawer of the cheque was situated. He further submits that in view of amended provisions of Sections 142(2) and 142A of the Act, the jurisdiction lies with the Jalandhar Court instead of Una(H.P.) to entertain the instant complaint.

As per office report, service is complete, but no one has put in appearance on behalf of the respondent. Even on the last date of hearing also nobody was present on his behalf.

Heard.

The amended provisions of Sections 142(2) and 142A of the Act by way of the Negotiable Instruments (Amendment) Second Ordinance 2015, read as under:-

“In the principal Act, Section 142 shall be numbered as subsection (1) thereof and after subsection (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.”

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases transferred to the court having jurisdiction under subsection (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015 shall be deemed to have been transferred under this Ordinance, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under subsection (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of this Ordinance, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before

which the first case was filed and is pending, as if that sub-section had been in force at all material times.’’

In view of the aforesaid, it can be safely inferred that the Court within whose jurisdiction the cheque in question is presented for encashment is competent to try the complaint under Section 138 of the Act. Thus, the Court at Jalandhar will have the jurisdiction to entertain the instant complaint.

Accordingly, the present petition is allowed, impugned order dated 05.02.2015 (Annexure P-1) is set aside and the trial Court is directed to proceed with the matter in accordance with law after giving notice to the respondent.

The parties are directed to appear before the trial Court on 15.07.2016.

May 27, 2016
Anjal

[HARI PAL VERMA]
JUDGE