

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 4 OF 2017

SHRI. SADHURAM SHANKAR BHOIR., ... Petitioner
Versus
SHRI. GOPAL TANDON., ... Respondent

Mr. D.N. Gondhali with Mr. Toraskar, Advocates for the
Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 17th January, 2017

ORAL ORDER:

The petitioner is an accused in a complaint under Section 138 of the Negotiable Instruments Act, 1881 (the Act, for short) being Criminal Case No. 177/OA/NI/2012/D, which was filed before the learned Judicial Magistrate First Class at Margao. Undisputedly, the subject cheque was presented for payment to the account of the respondent-complainant in the Punjab National Bank at Margao (Goa) branch.

2. On the basis of the application made on behalf of the petitioner, the learned Magistrate relying upon the judgment dated 01.08.2014 passed by the Hon'ble Supreme Court in the case of DASHRATH RAJPUT SINGH VS. STATE OF MAHARASHTRA in Criminal Appeal No.2287/2009, had transferred the case to the Court of the Judicial Magistrate First Class at Panvel. This was challenged by the

respondent-complainant before the learned Sessions Judge in Criminal Revision Application No.60/2015. The learned Sessions Judge by impugned judgment and order dated 07.11.2016 has allowed the criminal revision application, directing that the complaint would be continued to be tried in the Court of Judicial Magistrate First Class at Margao.

3. The learned Sessions has relied upon the amendment to the Negotiable Instrument Act and by the Negotiable Instruments (Amendment) Act, 2015, which came into force on 29.12.2015. It has been held that in view of Section 142(2) of the amended provisions, the offence under Section 138 of the Act has to be inquired into and tried by the Court in whose local jurisdiction, (a) if a cheque is delivered for collection through an account, the branch of the bank where the payee or holder maintains the account, is situated or (b) if the cheque is presented for payment by the payee or holder, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

4. It is not disputed on behalf of the petitioner that the cheque was paid through the account of the respondent/complainant with the Punjab National Bank at Margao (Goa) branch. If that be so, the present case would be covered by clause (a) of Section 142(2) of the Act. In that view of the matter, I do not find that

there is any infirmity in the order passed by the learned Sessions Judge. In such circumstances, the Criminal Writ Petition is dismissed in limine.

C. V. BHADANG, J.

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