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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 87 OF 2014**

Mr. M. Balasubramaniam & Ors.

... Applicants

vs.

The State of Maharashtra & Ors.

... Respondents

Mr. Rahul Shivaji Kadam for the Applicant.

Mr. Mehul Rathod i/b. Mr. Bharat M. Jain for Respondent no.2.

Ms. N. S. Jain, APP for the State.

CORAM : A.K. MENON, J.

DATE : 19th JUNE, 2017**P.C.:**

1. Heard. By this revision application the applicant has called into question the order dated 29th May, 2013 passed by the Metropolitan Magistrate 28th Court, Esplanade, Mumbai holding that the said Court had territorial jurisdiction to entertain and try the complaint. The order came to be passed on an application for transfer made before the Supreme Court under Section 406 of the Criminal Procedure Code on the ground that the cheques issued were drawn on State Bank of India, Sivakasi branch and were presented for collection in ICICI Bank, Sivakasi. The Respondent issued notice from Mumbai and filed the complaint in Mumbai. Accordingly, it was the applicants case that Court in Mumbai had no jurisdiction. The Supreme Court vide order dated 17th April, 2012 disposed of the transfer petition holding that the Metropolitan Magistrate Court could decide the issue in the light of averment made in the transfer petition and the judgment

referred to in paragraph 2 of the order of the Supreme Court. The Metropolitan Magistrate's Court had accordingly taken into account the directions of the Supreme Court and decided the issue of jurisdiction after hearing parties and has come to the conclusion that Mumbai Court will have jurisdiction to the trial of the complaint.

2. The order is assailed on the ground that by virtue of the amendment to the Negotiable Instruments Act and in particular Section 142, the addition of Sub-Section (2) would clearly establish that in the facts of the case, the Court in Sivakasi would have jurisdiction. The cheques were deposited in the Sivakasi branch of ICICI Bank and therefore by operation of law as amended, the Court with whose jurisdiction the said branch is situated alone would have jurisdiction.

3. Heard learned Counsel for the parties at length. Learned Counsel appearing for the applicant laid stress on the fact that the complaint itself discloses that the complainant bank was at Sivakasi. He relied upon an averment in paragraph 3 of the complaint which reads as under :

"3. The complainant states that he has deposited the aforesaid cheques with his banker, ICICI Bank, Sivakasi Branch, for encashment on 05/06/06. However, the said cheques were returned unpaid with endorsement "FUNDS INSUFFICIENT" vide Banker's memo dated 07/06/06. Hereto annexed and marked Exhibit "B" is the copy of the said memo."

4. Relying upon the said averment it is submitted that according to the respondent's own showing the local Court having territorial jurisdiction over the

branch at Sivakasi viz. the branch at which cheques were deposited, would be the appropriate Court before which the complaint could have been filed. The complaint is filed in the year 2006 and by virtue of the proceedings including the attempt to transfer, the same has resulted in delay of 10 long years. Today it is submitted by learned Counsel for the applicant that in view of the averment and the fact that the cheque was deposited in the branch at Sivakasi, the complaint ought to have been transferred and the Metropolitan Magistrate has incorrectly decided the issue. He therefore submitted that the orders dated 29th May, 2013 is liable to be quashed and set aside.

5. Learned Counsel for the second respondent pointed out that his bankers were ICICI bank which has branches in many places including Sivakasi and since it was convenient to deposit cheques at the Sivakasi branch, he deposited the cheques in the said branch in order to expedite clearance. It is by now common knowledge that in various banks although accounts may be held in particular branch in a particular city or town, it is permissible to deposit the cheques with other branches of the same bank situated in other cities and towns. . Owing to development of technology credit would be given in the home branch where the payee or holder in due course had an account.

6. Learned Counsel further submitted that a fair reading of Section 142(3) will establish that the only place where the complaint could be filed. The second respondent's Counsel has pointed out that even the cheques clearly mention on its

reverse the account number of the payee and the branch at which the account is maintained. In this respect, the following endorsement appears on the reverse of the cheques ***“A/c No.: 026105000893, Zaveri Bazar, Mumbai”***. Each of the cheques which are annexed to this application contain this endorsement and accordingly it appears that the branch of the bank where the second respondent maintains account is the Zaveri Bazar, Mumbai.

7. As against this learned Counsel for the applicant submitted that on perusal of the cheque return memo copy of which appears at page 62 issued by State Bank of India reveals that the cheques were deposited through ICICI Bank, Sivakasi. This dishonour memo mentions overleaf the amount of all cheques and cheque numbers. It is not in dispute that vide this dishonour memo the cheques were returned by the State Bank of India. It is submitted that, if the State Bank of India had returned the cheque to ICICI Bank, Sivakasi and if the account of the payee was in Mumbai the cheques would not have been returned to the Sivakasi Branch.

8. I do not find much merit in the submission in as much as the State Bank of India, Sivakasi Branch is a town branch which returned cheques to the Branch of ICICI Bank from where it received the cheque for clearance. Accordingly, the dishonour memo is addressed to ICICI Bank, Sivakasi. By virtue of the deeming provision of Section 142 and as elaborated in the explanation there is no substance in the contention that the Court at Sivakasi alone had jurisdiction.

Having come to this finding, it is not possible to fault the order impugned in the present revision application.

9. Accordingly, I pass the following order :

- (i) Revision Application is rejected.
- (ii) No order as to costs.
- (iii) Interim Order, if any, stands vacated.
- (iv) In view of the fact that this complaint is of the year 2006, the learned Magistrate is requested to proceed with the matter on the schedule dates as per its seniority and without granting any adjournments unless the situation warrants an adjournment.

(A. K. MENON, J.)