

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.3343 of 2016

ORDER:

The notice sent to 1st respondent returned as absent and unclaimed is a sufficient service.

Heard learned counsel for the revision petitioner and learned Public Prosecutor representing the State and perused the impugned order and also the Negotiable Instruments (Amendment) Ordinance 6/2015 which came force on 15.06.2015 and amended Act No.26/2015 and by incorporation of Sections 142(2) and 142-A thereunder.

The amendment brought into existence speaks notwithstanding anything contained in Cr.P.C. or any judgment, decree, order or direction of any Court, all cases arisen out of Section 138 of the Negotiable Instruments Act (for short 'the Act') which were pending in any Court whether filed before it or transferred it before the commencement of the Negotiable Instruments (Amendment) Ordinance 6/2015 dated 15.06.2015, shall be transferred to the Court having jurisdiction under Section 142(2) of the Act, as if that sub section had been in force at all material times. In Section 142 sub Section 2 speaks the offence under Section 138 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 the drawee bank where the drawer maintains the

account is situated. Once such is the case, irrespective of the earlier return of the complaint pursuant to the expression of the Apex Court in **Dashrath Rupsingh Rathod Vs. State of Maharashtra**¹, the Court where the complaint originally presented got jurisdiction having regard to return when represented the learned Magistrate ought to have been entertained.

In view of the above, the impugned docket order of the lower Court in CrI.M.P.(SR).No.4296 of 2016 in C.C.No.80 of 2012 pursuant to the return order dated 02.09.2014 is set aside with a direction to receive the complaint and entertain the application to condone the delay in representation, after notice to the respondent accused and proceed according to law.

Accordingly and in the result, the criminal revision case is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 20.02.2017
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¹ 2014 (9) SCC 129