

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

CRM-M-1391 of 2015.

Decided on:-11.09.2017.

Maghan paper Mills Pvt. Limited, Sangrur.

.....Petitioner.

Versus

Promila Arora and another

.....Respondents.

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

Present:- Mr. Manish Kumar Singla, Advocate
for the petitioner.

None for the respondents.

HARI PAL VERMA, J. (ORAL)

Petitioner-complainant i.e. Maghan Paper Mills Private Limited, Sunam Road, Sangrur through its authorized signatory Pardeep Sharma has filed the present petition under Section 482 Cr.P.C. impugning the order dated 20.12.2014 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Sangrur, whereby the complaint dated 27.09.2011 (Annexure P-3) filed by the petitioner under Sections 418, 419, 420 and 120-B IPC as well as Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) had been returned to the petitioner-complainant so as to file the same before the Court of competent jurisdiction.

Learned counsel for the petitioner has argued that the respondent No.1-accused has issued two cheques dated 12.08.2011 (Annexures P-1 and P-2) which are payable at all CBS Branches. However, when the said cheques were presented for clearance, the same were not cleared as the banker of the

accused informed the petitioner-complainant that the cheques have been dishonoured due to 'account closed' vide memo dated 13.08.2011. On receipt of the aforesaid intimation from the bank, the petitioner filed the aforementioned complaint in the Court.

He has further argued that similar controversy has already been decided by this Court in ***CRM-M-30501 of 2014*** titled as ***M/s Nahar Industrial Enterprises Limited Versus M/s Neelam Enterprises and another*** decided on 02.11.2015 and while considering the judgment of Hon'ble Supreme Court in ***Dashrath Rupsingh Rathod Versus State of Maharashtra and another 2014(3) RCR (Criminal) 904***, the petition was allowed.

He has further contended that after passing of the judgment in ***Dashrath Rupsingh Rathod's case (supra)***, necessary amendment in Section 142-A of the Act has been carried out. In the present case, the trial Court has committed illegality while holding that it is at the place of drawer, the complainant is required to file complaint under Section 138 of the Act, whereas in view of the amendment, the complainant is competent to file a complaint at either of the places i.e. at the drawer's place or the place where the cheque was bounced.

At this stage, Mr. Puneet Sharma, Advocate, who is present in the Court, has been asked to assist the Court, but he states that he has no instructions to appear on behalf of the respondents.

Having heard learned counsel for the petitioner, this Court finds that in the light of the judgment of the Apex Court in ***Bridgestone India Pvt. Ltd. Versus Inderpal Singh 2016 (3) RCR (Criminal) 171***, the amendment in Section 142-A of the Act has been held to be retrospective. Even otherwise,

this Court in *M/s Devsaria Filling Station Kalanaur Versus M/s VNR Auto Logistics 2017(3) RCR (Criminal) 849* has held that the Parliament had an intention to make it retrospective, obviously to remove the inconvenience being caused to the litigants.

Therefore, this Court finds that the submission made by learned counsel for the petitioner deserves to be accepted. The petitioner-complainant is equally competent to file compliant at a place, where the cheques were bounced or at a place, where the drawer has issued the cheques in question.

Accordingly, the present petition is allowed and the impugned order dated 20.12.2014 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Sangrur is set aside. The trial Court is directed to accept the original papers returned to the petitioner-complainant and to decide the complaint in accordance with law.

September 11, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No