

CRM-M-24123-2016

[1]

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

(Sr.No.251)

CRM-M-24123-2016

Date of Decision:-May 05, 2017

M/s Devsaria Filling Station Kalanaur

.....Petitioner

V/S

M/s VNR Auto Logistics

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present : Mr. Akashdeep Singh, Advocate,
for the petitioner.

None for the respondent.

A.B. Chaudhari, J. (Oral)

Heard learned counsel for the petitioner.

This Court had issued notice of motion for final disposal on August 16, 2016 in view of the short controversy about the territorial jurisdiction of the Court in the matter of dishonour of cheque in the sum of ₹3,41,557/-

The petitioner-complainant had filed his complaint on 02.08.2013 under Section 138 of Negotiable Instruments Act, 1881 (for short the 'Act') in the Court of learned Judicial Magistrate 1st Class, Rohtak. The drawee bank was obviously at Rohtak where the cheque was presented by the petitioner and was dishonoured. The cheque bearing No.015538 of Tamilnadu Mercantile Bank Ltd., Chennai was issued on 05.06.2013 by the accused. After filing of the complaint, the trial Court on 05.10.2013 had issued summoning order-Annexure P-3 to the accused and the said accused

had appeared before the Court at Rohtak on March 22, 2014 along with his counsel after obtaining bail. Thereafter on 01.07.2014 examination-in-chief of the complainant was recorded but his cross examination was deferred.

The trial Court then made an order on 19.11.2014-Annexure P-6 and observed in the said order that post summoning evidence had not actually started and, therefore, in terms of the judgment of the Apex Court in the case of **Dashrath Rupsingh Rathod Versus State of Maharashtra and anothers, 2014(3) RCR (Criminal) 904**, the case papers were liable to be returned to the complainant for being presented to the Court at Chennai, since the cheque was issued from Tamilnadu Mercantile Bank Ltd. at Chennai. It is this order which is under challenge.

Learned counsel for the petitioner-complainant has made two fold submissions. The first submission is that the trial Court factually made a mistake in holding that the post summoning evidence had not begun, whereas as a matter of fact, the examination-in-chief of the complainant was recorded and, therefore, even in accordance with the decision of Apex Court in the case of **Dashrath Rupsingh Rathod Versus State of Maharashtra and anothers (supra)** the case ought to have been tried only at Rohtak.

The second submission is that in accordance with Section 142-A of the Act, as amended w.e.f. 15.06.2015, and in accordance with the decision of the Apex Court in the case of **Bridgestone India Pvt. Ltd. Versus Inderpal Singh, 2016(1) R.C.R.(Civil) 320**, the provision has been held to be retrospective. Having gone through the said decision as well as the provision, I find that the provision clearly shows that the Parliament had an intention to make it retrospective, obviously to remove the inconvenience

being caused to the litigants.

I find that the submissions made by the learned counsel for the petitioner are required to be accepted on both the counts. At any rate, it would be tortious to call upon the complainant to file his case at Chennai in the matter of bouncing of cheque in the sum of ₹3,41,557/-

Be that as it may, in the light of the above discussion and the issue being covered as aforesaid, the following order is made:-

ORDER

1. Petition is allowed.
2. The impugned order dated 19.11.2014 (Annexures P-6) and order dated 25.04.2016 (Annexure P-9) in Criminal Complaint No.633 passed by Judicial Magistrate 1st Class, Rohtak are quashed and set aside.
3. It is declared that it is the Court at Rohtak which has territorial jurisdiction to try the criminal complainant No.633 dated 02.08.2013 filed by the petitioner-complainant.

The original papers supposed to have been returned to the petitioner-complainant shall be accepted by the trial Court.

May 05, 2017

pankaj

(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No