HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.2602 of 2014

ORDER:

Heard the learned counsel for the petitioner and the 2nd respondent.

The present revision case is filed questioning the orders passed in C.F.R.No.1403 of 2014 dated 09.10.2014 on the file of the Judicial First Class Magistrate, Utnor, Adilabad District, returning the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act"), to file the same before the appropriate Court.

From a perusal of the material on record, the subject cheque was presented for encashment in State Bank of India, Koti, Hyderabad, which is the complainant's bank. If that be so, as per the amendment brought out to Section 142(2)(a) of the Act vide Amendment Act, 26 of 2015, a complaint can be filed either within the jurisdiction of the payee's or the drawer's bank. Section 142(2) reads as under:

> "**142. Cognizance of offences –**
>
> (2) The offence under Section 138 shall be inquired into and tried only by a Court within whose local jurisdiction, -
>
> (a) 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
>
> (b) 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 the account, is situated."

In the case on hand, when the cheque was presented in State Bank of India, Koti, Hyderabad, the II Additional Chief Metropolitan Magistrate, Hyderabad, is the competent Court to entertain the said complaint.

In these circumstances, the criminal revision case is allowed, setting aside the impugned order, dated 09.10.2014, directing the petitioner to file the complaint before the Court of competent jurisdiction. Consequently, the petitioner is given liberty to present the complaint before the appropriate Court, as indicated above.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 07.09.2018.
ES