

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

CRM-M No. 38466 of 2014

Date of Decision:-25.10.2018

Leeford Health Care Ltd.

...Petitioner

Versus

N.K. Pandian and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Aminder Singh, Advocate
for the petitioner.

RAMENDRA JAIN J.(Oral)

Through this petition filed under Section 482 Cr.P.C., prayer has been made for setting aside order dated 16.10.2014 (Annexure P-5) passed by learned Judicial Magistrate, Ludhiana, returning its complaint under Section 138 of Negotiable Instruments Act (in short 'N.I. Act') read with Section 420 IPC alongwith documents to the petitioner for re-filing, according to the procedure established by law.

In nut-shell, petitioner filed a complaint under Section 138 of N.I.Act read with Section 420 IPC against the respondents, which on coming of judgment of Hon'ble Supreme Court in **Dashrath Rupsingh Rathod vs. State of Maharashtra and another, Criminal Appeal No.2287 of 2009** was returned to the petitioner for onwards filing of the

same before appropriate Court.

However, during the pendency of the instant petition, Government of India issued notification/ordinance dated 22.09.2015.

Relevant para 3 of the same reads as under :-

“In the principal Act, Section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:-

(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 account, is situated.

Explanation.--For the purposes of clause(a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be maintains the account.”

According to above notification, the Court within whose jurisdiction, the cheque in question is presented for encashment is competent to try the complaint under Section 138 of N.I.Act.

Since the petitioner had presented the cheque within the local jurisdiction of the Courts at Ludhiana, therefore, the complaint of the present petitioner is very much maintainable before the Judicial Magistrate 1st Class, Ludhiana.

Consequently, the impugned order dated 16.10.2014 (Annexure P-5) is set aside. The trial Court is directed to receive and entertain the complaint on its presentation by the petitioner within 15 days from today and try the same in accordance with law.

The petition is disposed of accordingly.

October 25, 2018
Vijay Asija

(**RAMENDRA JAIN**)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No