

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42226 of 2014
DATE OF DECISION:-14.11.2018

RAKESH MODI

...PETITIONER...

V.

M/S ATMA RAM MELA RAM STEELS
PVT. LTD. LUDHIANA AND ORS.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Puneet Singla, Advocate,
for the petitioner.

Mr. K.S. Kang, Advocate,
for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing order dated 23.09.2014 (P-1) passed by Sub Divisional Magistrate, Amloh, whereby complaint No.415 dated 10.06.2014 filed under Sections 138 and 139 etc. of Negotiable Instruments Act (for short, "Act") has been ordered to be returned to the complainant/petitioner for presentation to the proper court.

In nutshell, Sub Divisional Judicial Magistrate, Amloh returned the complaint of the petitioner under Sections 138/139 of the Act, on the ground that he had no jurisdiction to try the same in view of judgment dated 01.08.2014 passed by Hon'ble Supreme Court in Criminal Appeal

No.2287 of 2009, titled as ***"Dashrath Rup Singh Ratho vs. State of***

Maharashtra & another", vide order dated 23.09.2014 for presentation of the same in proper court.

However, the Ministry of Law and Justice, Government of India vide Second Ordinance No.7 of 2015 dated 22.09.2015, added Section 142A of the Act, which is as under:-

"142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under subsection (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that

court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Act, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.”

Perusal of above provision shows that complaint (Annexure P-2) of the petitioner has to be tried only by a Court of competent jurisdiction at District, Fatehgarh Sahib. Therefore, Sub Divisional Judicial Magistrate, Amloh is directed to permit the petitioner to file the complaint before the competent court of jurisdiction at Fatehgarh Sahib, who shall try the same in accordance with law.

The instant petition stands disposed of accordingly.

14.11.2018

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whether speaking/reasoned:

whether reportable:

(RAMENDRA JAIN)
JUDGE

Yes/No

Yes/No