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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11953-2016

Date of Decision : February 25, 2019

Harjinder Singh

.... Petitioner

Versus

Dr. Karamjit Kaur Bath

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Vijay Rana, Advocate,
for the petitioner.

None for the respondent.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for setting-aside judgment dated 22.9.2014 (Annexure P/2) passed by learned Judicial Magistrate Ist Class, Jalandhar whereby the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act (for short, "the Act") titled – **Harjinder Singh Vs. Dr. Karamjit Kaur Bath,** was ordered to be returned to the petitioner/complainant with a direction to present the same before the appropriate Court and the judgment dated 12.12.2014 (Annexure P/4) passed by learned Additional Sessions Judge, Jalandhar vide which the revision filed by the petitioner against the judgment dated 22.9.2014 passed by learned trial Court, was dismissed.

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2 Learned counsel for the petitioner contended that the petitioner had filed complaint under Section 138 of the Act at Jalandhar as the cheque in question was issued at Jalandhar and the same was presented at branch of the bank at Jalandhar and was dishonoured and thereafter the complaint was filed under Section 138 of the Act at Jalandhar. However, the said complaint was ordered to be returned by learned trial Judge to the petitioner-complainant with documents against receipt and to file the same with the appropriate Court. The said order has been passed in the light of the judgment passed by Hon'ble Apex Court in **Dashrath Rup Singh Rathod Vs. State of Maharashtra and another, 2014(3) RCR (CrI.) 904**. The revisional Court also dismissed the revision petition filed by the petitioner.

3. As per learned counsel for the petitioner, in view of the amended provisions of the Negotiable Instruments Act Ordinance 2015, which came into force on 15.1.2015, the cheque was to be presented where the account is being maintained. For ready reference, relevant amendment in Section 142 of the Act is being extracted hereunder :-

“3. 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

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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.”

4. A perusal of the aforesaid provision transpires that after issuance of the Ordinance, 2015, offence under Section 138 of the Act shall be inquired into and tried only by a Court within whose local jurisdiction, 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 if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of drawee bank where the drawer maintains the account, is situated. The aforesaid amendment appears to have been carried out to overcome the judgment captioned as **Dashrath Rup Singh Rathod's case (supra)**.

5. Identical view was taken by Hon`ble Co-ordinate Benches of this Court in CRM-M-37822-2015, **M/s Jai Sachdanand Leather Company Vs. M/s V.B. Sports and anr.**, decided on 09.08.2017 and CRM-M-6308-2015, **The Patiala Central Co-operative Bank Ltd. Vs. Seema**, decided on 04.08.2015 and CRM-M-41124-2014, **M/s Mohindra Engineering Works Vs. Chamkaur Singh**, decided on 29.09.2015.

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6. In view of the above, the present petition is accepted and the impugned order/judgment passed by the Courts below are hereby set-aside. The trial Court shall proceed with the aforesaid complaint as per law.

7. The petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

February 25, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes

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