

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-1745-2013 (O&M)

Date of Decision: 01.04.2019

Rolly S. Vettoor and others

.... Petitioners

Versus

M/s E.I. Dupont India (Pvt.) Ltd.

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. KK Gupta, Advocate for the petitioners.

Mr. Rohit Khanna and Mr. Saurabh Gautam, Advocates
for the respondent.

RAMENDRA JAIN, J. (ORAL)

CRM-11131-2019

Allowed as prayed for.

Documents Annexures R-1 to R-3 (Colly.) filed along with
the application are taken on record, subject to all just exceptions. Be
tagged at the appropriate place.

CRM-M-1745-2013 (O&M)

Through this petition under Section 482 Cr.P.C., prayer has
been made for quashing/setting aside Criminal Complaint No. 286 dated
17.03.2009 (Annexure P-7) titled as “M/s E.I. Depont India Pvt. Ltd. Vs.
M/s Header System (India) Limited and others”, under Section 138 of the
Negotiable Instruments Act, 1881 (for short-'the Act') and summoning
order dated 23.05.2011 (Annexure P-8) as the Court at Gurgaon has no
territorial jurisdiction to entertain and try the same.

Briefly, there were business transactions in between the parties at Kerala, Tamil Nadu etc. in South India. However, some dispute arose in between them. Finally, respondent, after serving legal notice, filed impugned complaint Annexure P-7, under Section 138 of the Act, against the petitioners in Court at Gurgaon, whereupon, the trial Court after recording preliminary evidence, summoned the petitioners vide order dated 23.05.2011 (Annexure P-8).

Learned counsel for the petitioners *inter alia* contends that petitioners are residents of Kerala. The entire transactions in between the parties took place in South India. The cheque in favour of respondent-complainant was issued by the petitioner at Kumaly, District Ernakulam, Kerala. It was presented for encashment in City Bank, Bangalore. Therefore, the Court at Gurgaon had no jurisdiction to entertain complaint (Annexure P-7) of respondent and pass summoning order (Annexure P-8) against them.

On the other hand, learned counsel for the respondent, relying upon two judgments of the Apex Court in **Bridgestone India Pvt. Ltd. Vs. Inderpal Singh, (2016) 2 Supreme Court Cases 75** and **K. Bhaskaran Vs. Sankaran Vaidhyan Balan and another, (1999) 7 SCC 510**, contends that on the date of issuance of summoning order dated 23.05.2011 (Annexure P-8), the judgment of the Apex Court in **K. Bhaskaran's case (supra)**, was applicable. Therefore, the complaint was very much maintainable in Court at Gurgaon.

Having given thoughtful consideration to the rival submissions, this Court finds that instant petition merits acceptance for

the reasons to follow:-

The respondent had its office throughout India, including the States of Kerala, Tamil Nadu and Karnataka. For that reason, respondent presented the cheque issued by the petitioners for encashment through its office at Bangalore in City Bank, which bounced. Therefore, the impugned complaint Annexure P-7, could be filed by the respondent at Bangalore. It seems that respondent just to harass and putting undue pressure upon the petitioners filed impugned complaint at Gurgaon, which is distantly situated from Bangalore, despite having its office and running business from the aforesaid place.

In view of the above, impugned Criminal Complaint No. 286 dated 17.03.2009 (Annexure P-7), summoning order dated 23.05.2011 (Annexure P-8) and all the subsequent proceedings arising therefrom, qua the petitioners are quashed. Trial Court is directed to return the complaint to the respondent for its presentation before the appropriate Court.

The facts and circumstances of the judgments relied upon by learned counsel for the respondent are quite distinguishable from the facts of the present case. Therefore, no benefit of the same, whatsoever, can be given to the respondent.

Disposed of, accordingly.

April 01, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No