

CRM-M-17053-2014

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

CRM-M-17053-2014 (O & M)  
Date of Decision:29.11.2019

Vishal Nayyer

... Petitioner

Versus

Cholamandlam Investment & Finance Company Limited

... Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Rishu Mahajan, Advocate,  
for the petitioner.

Ms. Puja Chopra, Advocate,  
for the respondent.

**HARNARESH SINGH GILL, J.**

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of complaint No.17536 dated 04.09.2013 (Annexure P-1) and the summoning order dated 04.09.2013 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Amritsar.

In the present petition, the matter relates to the maintainability/jurisdiction of complaint under Section 138 of the Negotiable Instruments Act (for brevity, 'N.I.Act'), titled as 'Cholamandlam Investment & Finance Company Ltd. Vs. Vishal Nayyer', instituted on 04.09.2013, filed by the respondent-complainant against the petitioner-accused.

Now during the pendency of the complaint and the present petition, amended provision of the Negotiable Instruments Act Ordinance 2015, came into force on 15.01.2015 and as per the same, the complaint is

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to be presented where the account is being maintained. For ready reference, relevant amendment in Section 142 of the N.I.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 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.”*

A perusal of the aforesaid provision transpires that after issuance of the Ordinance, 2015, offence under Section 138 of the N.I.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,

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the branch of drawee bank where the drawer maintains the account, is situated.

It is the case of the respondent/complainant that the cheque in question was submitted for encashment at Amritsar, and therefore, by virtue of above stated amendment, the Court at Amritsar has the jurisdiction and would be competent to try and decide the complaint.

In *M/s Rakesh Oswal Hosiery Mills Pvt. Ltd. Vs. M/s Jain Rubber and Foam Mills and others* 2016 (3) R.C.R. (Criminal) 235, this Court has held as under:

*“11. Thus, it ensues that being a procedural law, a change in the law of procedure operates retrospectively and unlike the law relating to vesting right is not only prospective and thus to the mind of this Court the same lays down a rule of procedure, it ordinarily affects pending actions and it ought to have a retrospective effect as well. Thus, it is very well clear as to the very applicability of this amendment to the cases before this Court. Furthermore, the Hon’ble Supreme Court in a subsequent view reported in 2016(1) RCR (Civil) 320: 2015 (6) Recent Apex Judgments (R.A.J.) 422: in the case of ‘Bridgestone India Private Limited v. Inderpal Singh’, considering the ratios laid down in Dashrath Rup Singh Rathod’s case (supra) have clearly held that once the cause of action accrues to the complainant, jurisdiction of the Court to try the case will be determined by reference to the place where the cheque is dishonoured and precisely this is what has transpired in the present case. Even the very provisions of Section 177 Cr.P.C. read with Sections 182(1), 184 and 220(1) comes to the aid of the petitioner in this manner.”*

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Keeping in view the above facts and settled law, the complaint, which was instituted on 04.09.2013, has rightly been filed before the Judicial Magistrate Ist Class, Amritsar. Even though, the amended Section 142(3) Cr.P.C. came into force on 15.01.2015, yet as per the ratio of law laid down in above referred cases, a change in the law of procedure operates retrospectively. Therefore, the complaint is rightly being tried by the competent court.

No other point has been raised.

Finding no merit in the present petition, the same is dismissed.

29.11.2019

parveen kumar

**(HARNARESH SINGH GILL)**  
**JUDGE**

Note: Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No