

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

CRM-M-40884-2014

Date of decision: July 11, 2019

Puran Singh Rana

....Petitioner

Versus

Subodh Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. N.K. Sharma, Advocate for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing the order dated 28.10.2014 passed by the trial Court whereby the complaint filed by the petitioner under Section 138/142 of the Negotiable Instruments Act against the respondent-accused was returned in original to be filed before the competent Court at Meerut (U.P.) having jurisdiction to deal with the case as the cheque drawn by the accused person in his Bank of Baroda, Shashtri Nagar, Meerut Branch Meerut.

On 17.12.2014, while issuing notice of motion, the following order was passed :-

“The learned counsel refers to **Dashrath Rupsingh Rathod Vs. State of Maharashtra and another**, 2014(3) R.C.R. (Criminal) 904, wherein it has been observed that “Consequent on considerable consideration we think it expedient to direct that only those cases where, post the summoning and appearance of the alleged Accused, the recording of evidence has commenced as envisaged in Section 145(2) of the Negotiable Instruments Act, 1881, will proceeding continue at that place. To clarify, regardless of whether evidence has been led before the Magistrate at the

pre-summoning stage, either by affidavit or by oral statement, the Complaint will be maintainable only at the place where the cheque stands dishonoured. To obviate and eradicate any legal complications, the category of Complaint cases where proceedings have gone to the stage of Section 145(2) or beyond shall be deemed to have been transferred by us from the Court ordinarily possessing territorial jurisdiction, as now clarified, to the Court where it is presently pending.”, and states that the complaint had reached the stage of recording evidence and therefore, the matter could not have been returned for lack of jurisdiction.”

This petition is pending since long and both the parties have been taking adjournments.

During the pendency of the petition, the matter was referred to the Mediation and Conciliation Centre of this Court for exploring the possibilities of some settlement. However, the same did not mature.

Counsel for the petitioner submits that after passing of the judgment of the Hon’ble Supreme Court in **Dashrath Rupsingh Rathod Vs. State of Maharashtra and another**, the Negotiable Instruments Act was amended and Section 142-A was added, which reads as under :-

“[142A. Validation for transfer of pending cases.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (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.]”

In view of the same, the Court at Panipat, which returned the complaint, has jurisdiction to entertain and try the complaint.

Counsel for the complainant could not dispute the factual position.

In view of the same, this petition is allowed, impugned order dated 28.10.2014 passed by the Judicial Magistrate 1st Class, Panipat is set aside and the petitioner is permitted to again present the complaint before the successor Court/competent Court at Panipat, which shall decide the same on merits.

The parties are directed to appear before the trial Court on 5.8.2019.

July 11, 2019
satish

(ARVIND SINGH SANGWAN)
JUDGE

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