

CRM-M-45212 of 2017

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

CRM-M-45212 of 2017
Date of decision: 31.01.2019

M/s Shri Jagdamba Electronics and another

.....Petitioners

versus

M/s Videocon Industries Limited

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Yash Pal Khullar, Advocate,
for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 07.09.2017 (Annexure P-2) of the learned Judicial Magistrate Ist Class, Palwal passed in CrI. Case No.RBT-35/2.9.2014/11.5.2017 (Annexure P-1), whereby application of the petitioner seeking transfer of complaint (Annexure P-1) from the Court at Palwal to Ahmednagar, has been dismissed.

In nutshell, respondent filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act (in short the 'Act') for bouncing of cheque for ₹1,96,958/- pertaining to his bank account in Punjab National Bank, Palwal. The petitioner moved an application for transfer of said complaint against him from Palwal to Ahmednagar for trial, where cheque was presented, which falls in a different State, which after hearing both the sides, was dismissed by the trial Court vide impugned order dated

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Learned counsel for the petitioner relying upon ***Bridgestone India Pvt. Ltd. v. Inderpal Singh***, 2016(1) R.C.R.(Civil) 320 (S.C.) *inter alia* urged that after amendment in Section 142 of the Act, Judicial Court at Palwal was not empowered to entertain and try complaint of the respondent because cheque in dispute was presented at Ahmednagar. Therefore, the Court at Ahmednagar was only competent to try the complaint of the respondent. The trial Court has not appreciated the facts of the judgment rendered in ***Bridgestone*** (supra) in a right perspective while dismissing the said application of the petitioner for transfer of complaint.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Prior to amendment in Section 142 of the Act, there was confusion as to where the aggrieved person had to file a complaint against bouncing of cheque i.e. either at the place, where the cheque was presented or at the place wherefrom the cheque was issued or in the alternative at the place of residence of the accused. Hon'ble Supreme Court in ***Dashrath Rupsingh Rathod v. State of Maharashtra and others***, 2014(4) R.C.R. (Civil) 145 held that complaint under the Act shall be filed at the place where the accused resides. Though that judgment created chaos inasmuch as it was very difficult for the complainant residing distantly or in other State to travel and approach the Court for his redressal at the place, where the accused resided. Through that ruling accused was benefited and payee-drawee for no fault of his was made to suffer for travelling and other miscellaneous expenses to approach the Court from where the cheque was

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wisdom amended Section 142 of the Act and introduced sub-section (2) to it, clarifying that payee/drawee shall have a legal right to file a complaint in a Court having jurisdiction, where the cheque was presented. Similar point has been dealt with in the authority relied upon by learned counsel for the petitioner. Complaint can only be filed at a place where the payee had presented the cheque.

However, the trial Court dealing with the facts of the case disagreeing with the aforesaid ruling relied upon by learned counsel for the petitioner and relying upon ruling of the Keral High Court in ***Francis T. Chachko v. T.K. Sanjeewan***, 2015(1) CCC 860 dismissed the application observing that judgment in ***Bridgestone's*** case (supra) relied upon by learned counsel for the petitioner has no application to facts of the present case.

This Court is in complete agreement with the aforesaid observation of the trial Court in view of the fact that petitioner is admittedly a resident of Palwal and he had issued the cheque in question from Palwal. Learned counsel for the petitioner has not been able to show that what prejudice has been caused to the petitioner, in case, the respondent for his convenience has filed the complaint at Palwal. Rather filing of the impugned complaint against the petitioner by the respondent at Palwal suits the petitioner.

Section 142(2) was introduced for the convenience of the complainant. As discussed above, in the instant case, when the complainant has no inconvenience in filing the complaint at Palwal, in that eventuality, petitioner cannot raise any objection, more particularly when he has been

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Ahmednagar to pursue the impugned complaint against him.

The application of the petitioner to transfer the complaint at Ahmednagar, a place distantly situated and the present petition against the impugned order is nothing, but a clever device of the petitioner to delay the trial against him.

In view of discussion made above, instant petition is dismissed being devoid of any merit.

January 31, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No