



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM:

**THE HONOURABLE MR.JUSTICE AMRESHWAR PRATAP SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD**

**W.P(MD)Nos.17038 & 17039 of 2018
and
W.M.P(MD)Nos.15012 & 15013 of 2018**

W.P(MD)No.17038 of 2018:

Kasiammal

... Petitioner

Vs.

1.The Secretary,
Government of India,
New Delhi.

2.The Manager,
Axis Bank,
Prema Complex,
2737, East Main Street,
Pudukkottai - 1.

3.Axis Bank Limited,
01, Shakespeare Sarani,
AC Market Building,
4th Floor,
Kolkata - 71.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring that Section 142 (2) of the Negotiable Instruments (Amendment) Act, 2015 is unconstitutional and against the principles of natural justice and consequently, annul the said provision and quash the proceedings of Case No.CS/56973/18, on the file of the 15th Metropolitan Magistrate Court, Calcutta.

For Petitioner : Mr.P.Sesubalan Raja

For Respondents : Mr.P.Dharmaraj for R.1

Mr.V.V.Sivakumar for R.2 & R.3



W.P(MD)No.17039 of 2018:

C.Jayaraman

... Petitioner

Vs.

1.The Secretary,
Government of India,
New Delhi.

2.The Manager,
Axis Bank,
Prema Complex,
2737, East Main Street,
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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring that Section 142 (2) of the Negotiable Instruments (Amendment) Act, 2015 is unconstitutional and against the principles of natural justice and consequently, annul the said provision and quash the proceedings of Case No.CS/55822/18, on the file of the 11th Metropolitan Magistrate Court, Calcutta.

For Petitioner : Mr.P.Sesubalan Raja

For Respondents : Mr.P.Dharmaraj for R.1

Mr.V.V.Sivakumar for R.2 & R.3

COMMON ORDER

[Order of the Court was made by **SUBRAMONIUM PRASAD, J.**]

The instant writ petitions have been filed to declare Section 142(2) of the Negotiable Instruments (Amendment) Act, 2015 as unconstitutional and against the principles of natural justice.

2. This Bench had an occasion to deal with a similar challenge to the same Section which was raised on the ground that the said Section sets at naught the judgment of the Honourable Supreme Court in the case of ***Dashrath Rupsingh Rathod v. State of Maharashtra*** reported in ***AIR 2014 SUPREME COURT 3519***, wherein, this Bench after looking into the reason as to why amendment was made,



rejected the contention holding that legislature can take away the basis of the judgment by either re-enacting, amending or introducing a section.

3. In the present case, the instant Section is being challenged on yet another ground, namely, it takes away the right of the affected party to effectively contest the prosecution which has been launched at a place which is far away from the place where the accused resides.

4. On a reading of Section 142(2) of the Act, it is clear that a complaint can be filed either at the place where the cheque is presented or at the place where the cheque has been returned for want of funds in the bank account. It cannot be said that *forum conveniens* should be the main guiding factor to decide the correctness or otherwise of a law. The Legislature in its wisdom has decided that the prosecution can be launched at either of the two places. In case, a party finds it difficult to approach the Courts to contest the matter, the remedy is to approach the Honourable Supreme Court under Section 406 Cr.P.C., which has the power to transfer any case or appeal pending in one State to the other State.

5. We do not find any merit in these writ petitions and accordingly, both the writ petitions are dismissed. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rsb

To
The Secretary,
Government of India,
New Delhi.

+1 CC to M/s.K.HARIHARAN, Advocate (SR-8669[F] dated 27/02/2020)
+2 CC to M/s.P.SESUBALARAJA, Advocate (SR-8286 & 8287 [F] dated 26/02/2020)

W.P(MD)Nos.17038 & 17039 of 2018

and

W.M.P(MD)Nos.15012 & 15013 of 2018

25.02.2020

JMN(05.03.2020) 3P : 5C

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