



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.02.2020**

CORAM:

**THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND**

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P. [MD]No.20256 of 2018

WEB COPY

P.Ayyakannu

: Appellant

Vs.

1.The Union of India,
by its Principal Secretary,
Ministry of Finance,
North Block,
New Delhi.

2.The Union of India,
by its Principal Secretary,
Ministry of Law and Justice,
Sasthri Bhavan,
New Delhi.

3.The Reserve Bank of India,
Mumbai.

4.The Axis Bank,
Trishul,
3rd Floor , (Opposite),
Samartheshwar Temple,
Law Garden, Ellis Bridge,
Ahmedabad,
Gujarat State.

5.The Senior Manager,
The Axis Bank Ltd.,
Keela Rajaveethi,
Pudukkottai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Declaration to declare that Section 142(2) of the Negotiable Instruments Act, 1881 is ultra vires to the Article 19 of the Constitution of India.

For petitioner : Mr.S.Muthukrishnan
For respondents 1 & 2 : Mr.C.Nandagopal, CGSC
For 3rd respondent : No appearance
For respondents 4 & 5 : Mr.V.V.Sivakumar



ORDER

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

The instant writ petition has been filed to declare Section 142(2) of the Negotiable Instruments (Amendment) Act, 2015 as unconstitutional.

2. This Bench had on an earlier occasion to dealt with a 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**. 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 re-enacting or amending the legislature.

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 from where the cheque has been returned for want of funds in the bank account. It cannot be said that *forum conveniens* should be a 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., and the Hon'ble Supreme Court has the power to transfer any case or appeal pending in one State to another State or approach a High Court under Section 405 Cr.P.C., if transfer is sought within the same State.

5. We do not find any merit in this writ petition and accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

GCG



To

1.The Principal Secretary
to Union of India,
Ministry of Finance,
North Block,
New Delhi.

2.The Principal Secretary
to Union of India,
Ministry of Law and Justice,
Sasthri Bhavan,
New Delhi.

3.The Reserve Bank of India,
Mumbai.

+1 CC to M/s.C.NANDAGOPAL, Advocate (SR-8552[F] dated 26/02/2020)

ORDER MADE IN
W.P.[MD]No.20256 of 2018

SMA/20/03/2020/3P/5C

25.02.2020