

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-M-8429-2016

Vijay Kumar (Diamond)

..... Petitioner

Versus

Silver Vision Entertainment and others

..... Respondents

2. CRM-M-10129-2016

M/s Adarsh Theater

..... Petitioner

Versus

Silver Vision Entertainment and others

..... Respondents

3. CRM-M-10631-2016

M/s Adarsh Theater

..... Petitioner

Versus

Silver Vision Entertainment and others

..... Respondents

Date of decision: 23.01.2020

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Pankaj Bali, Advocate
for the petitioner(s) (in all cases).

Mr. Manoj Kumar, Advocate
for the respondent(s) (in all cases).

RAMENDRA JAIN, J. (ORAL)

By this order, three above titled petitions are being disposed

of, filed against orders dated 27.11.2014 (CRM-M-8429-2016); 07.08.2014 (Annexure P-2, CRM-M-10129-2016) and 07.08.2014 (Annexure P-2, CRM-M-10631-2016), whereby the trial Court, in view of judgment of the Apex Court, rendered in **Dashtrath Rup Singh Rathod Vs. State of Maharashtra and another**, in Criminal Appeal No. 2287 of 2009, decided on 01.08.2014, returned all the three complaints filed by petitioner(s) under Section 138 of the Negotiable Instruments Act, 1881, (for short-'the Act'), for their presentation at Mumbai, where the drawee bank of dishonoured cheque is situated.

Being aggrieved, the petitioners instead of re-filing complaints in Mumbai, assailed the aforesaid orders of the trial Court before the Revisional Court at Ludhiana, which they finally withdrew to seek their redressal before this Court. That is how, these three above titled petitions.

Learned counsel for the petitioners referring to ordinance of Union of India, in the year 2015, qua incorporation of Section 142-A in the Act, submits that now the competent Court to try the complaints of petitioners is Sub Divisional Judicial Magistrate, Khanna. Therefore, they may be permitted to re-file their complaints before SDJM, Khanna, who may himself hear the same or assign to any other competent Court.

Learned counsel for the respondents has not been able to controvert the aforesaid submissions of learned counsel for the petitioners. However, his grouse is that after withdrawal of their revisions from the Revisional Court, petitioners approached this Court

after 10 months. Thus, they are not entitled to prosecute the respondents on account of delay and laches. That apart, only in one revision petitioner made statement for withdrawal of his revision, but there is no order in other two. Thus, they should be non-suited, at least, for two complaints.

Having given thoughtful consideration to the rival submissions, this Court finds all the three petitions merits acceptance, for the reasons to follow:

The petitioners were not at fault at any point of time. It was only judgment of the Apex Court in **Dashtrath Rup Singh Rathod's case (supra)**, which created confusion in the entire country. Thus, to set the things right, Union of India, introduced Section 142 in the Act, clarifying the competency of Court, where complaints under Section 138 of the Act can be filed and entertained.

For late filing of these petitions by the petitioners, they themselves are sufferer and not the respondents. The Courts are meant to impart justice. Nobody should be non-suited unheard on technical grounds.

In view of discussion made above, all the three petitions are accepted. Petitioners are permitted to re-file their complaint before SDJM, Khanna, within one month from today. SDJM Khanna, shall try all the three complaints himself or assign the same to some other Court of competent jurisdiction.

Disposed of.

It is, however, made clear that limitation part for no lapse of the petitioners would not come in their way.

January 23, 2020
rishu

(RAMENDRA JAIN)
JUDGE

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