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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 5312/2014**

RAUNAQ INTERNATIONAL

..... Petitioner

Through: Mr. Rajeev Sood, Advocate.

versus

2X PURE MALAYSIA SDN BHD & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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27.05.2024

1. The present petition is under section 482 of the CrPC and seeks the following prayer:-

It is, therefore, prayed that the impugned judgment and order dated 10.9.2014 passed by Ms. Preeti Aggarwala, MM-01 (NI ACT) West, Delhi in the case titled Raunaq International v. 2X Pure Malaysia SDN BHD, may kindly be set aside and case against the respondents may kindly be ordered to be proceeded further as per order dated 8.5.2014 passed by the then learned Shri Satvir Singh Lamba, MM-01, (NI Act)/West Delhi and the respondents may kindly be ordered to be tried further as per law.

2. Learned counsel appearing on behalf of the petitioner submits that a complaint under Section 138 of the Negotiable Instruments Act was filed against the present respondents on 26.03.2011. On 08.05.2014 summoning orders were issued by the learned Metropolitan Magistrate. On 10.09.2014 while relying upon the judgement of the Hon'ble Supreme Court in **Dashrath Rupsingh Rathod v. State of Maharashtra, (2014) 9 SCC 129,**



Learned Metropolitan Magistrate passed the impugned order returning the complaint on the grounds of jurisdiction. It is submitted that subsequently Section 142(2) of the NI Act was amended vide the gazette notification dated 15.06.2016, which reads as under:-

“142. ***

(2) The offence under Section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.”

3. It was also pointed out that Section 142A of the NI Act was also incorporated vide the Gazette Notification dated 15.06.2016, which reads as under:-

“142-A. 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.]”

4. It is submitted that as per the aforesaid provision the cases which were transferred for lack of jurisdiction as the bank of the drawer was not situated within the jurisdiction of the Court concerned have been directed to be returned and tried by the same Court. It is further pointed out that the amendment in question is retrospective in nature. It is submitted that therefore keeping in view the aforesaid the present impugned order may be set aside and the matter may be remanded back to the learned Metropolitan Magistrate.

5. Notices could not be served on the respondents as they are residing in Malaysia. It is further noted that at the time of passing of the impugned order the petitioners had not been served before the learned Trial Court.

6. The Hon’ble Supreme Court of India in **Bridgestone India (P) Ltd. v. Inderpal Singh, (2016) 2 SCC 75**, while dealing with a similar issue observed and held as under:-

“15. We are in complete agreement with the contention advanced at the hands of the learned counsel for the appellant. We are satisfied, that Section 142(2)(a), amended through the Negotiable Instruments (Amendment) Second Ordinance, 2015, vests jurisdiction for initiating proceedings for the offence under Section 138 of the Negotiable Instruments Act, inter alia, in the territorial jurisdiction of the court, where the cheque is delivered for collection (through an account of the branch of the bank where the payee or holder in due course maintains an account).



We are also satisfied, based on Section 142-A(1) to the effect, that the judgment rendered by this Court in Dashrath Rupsingh Rathod case [Dashrath Rupsingh Rathod v. State of Maharashtra, (2014) 9 SCC 129 : (2014) 4 SCC (Civ) 676 : (2014) 3 SCC (Cri) 673] , would not stand in the way of the appellant, insofar as the territorial jurisdiction for initiating proceedings emerging from the dishonour of the cheque in the present case arises.”

7. In view of the above legal provisions, the order dated 10.09.2014 is set aside and the matter is remanded back to the learned Metropolitan Magistrate to be proceeded as per the order dated 08.05.2014 in the present complaint.
8. With the aforesaid direction, the present petition is allowed and disposed of accordingly.
9. Pending application(s), if any, also stand disposed of.
10. Order be uploaded on the website of this Court, *forthwith*.
11. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.

AMIT SHARMA, J

MAY 27, 2024/sn

Click here to check corrigendum, if any