



**In the High Court for the States of Punjab and Haryana
At Chandigarh**

152

CRM-M-50165-2019 (O&M)

Jangir Chand

... Petitioner

Versus

M/s Deep Construction Company, Kotkapura

... Respondent

152-I

CRM-M-50167-2019 (O&M)

Jangir Chand

... Petitioner

Versus

M/s Deep Construction Company, Kotkapura and another

... Respondents

Date of decision: 02.04.2026**CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present:- Mr. P.S. Khurana, Advocate with
Mr. Gurvinderpal Singh, Advocate and
Ms. Sukhmandeep Kaur, Advocate for the petitioner.

Mr. Ashish Gupta, Advocate for the respondent.

SUBHAS MEHLA, J. (Oral)

1. Both above-stated petitions are being decided together as they emanate from the common transaction between the petitioner and respondent/complainant.

2. Present petitions have been filed under Section 482 of CrPC seeking quashing of order dated 05.10.2019(Annexure P-8) passed by learned



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Additional Sessions Judge, Faridkot, whereby judgements dated 01.08.2017 passed by learned Judicial Magistrate Ist Class, Faridkot, in complaint case No.893 dated 22.10.2013/06.05.2014, and complaint case No. 892 dated 15.10.2013/06.05.2014 have been set aside.

3. Brief facts of these cases are that the complainant firm is registered with Registrar of Firms and Munish Goyal son of Deep Chand Goyal, is one of its registered partner. Petitioner/accused is the sole proprietor of M/s Suryaveer Constructions Company and had purchased hot mix plant along with machinery from the complainant along with material amounting to Rs.8,33,000/-. Petitioner on behalf of Suryaveer Constructions Company issued two cheques i.e. one bearing No.715648 dated 22.04.2013 for Rs.4 Lakhs (as mentioned in CRM-M-50165-2019) and other bearing No.715649 dated 15.07.2013 for amount of Rs.4,33,000/- (as mentioned in CRM-M-50167-2019) in favour of complainant drawn on Oriental Bank of Commerce Branch at Ferozepur. Complainant presented aforesaid cheques i.e. bearing No.715648 dated 22.04.2013 for Rs.4 Lakhs and No.715649 dated 15.07.2013 for amount of Rs.4,33,000/-to its Banker, Oriental Bank of Commerce, Satta Bazar, Kotkapura, for clearance, however the bank returned both the cheques with the remarks '*Funds Insufficient*'. Thereafter, complainant through his counsel issued legal notices dated 11.06.2013 and 30.08.2013 respectively to the petitioner/accused seeking payment equivalent to cheques' amount respectively, within stipulated period. Both notices were duly received by the petitioner, but he neither replied to the said notices nor paid the amount of cheques. Hence, the present complaint.



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Cheque no	Amount (₹)	Notice dated	ASJ judgement	Petition before High Court
715648 Dt. 22.04.13	4,00,000	11.06.2013	CRR-42/2017 Dt. 05.10.19	CRM-M-50165-2019
715649 Dt. 15.07.13	4,33,000	30.08.2013	CRR-41/2017 Dt. 05.10.19	CRM-M-50167-2019

4. In order to adjudicate the present matter, it is necessary to consider the legal trajectory of this case. Initially, two complaints under Section 138 Negotiable Instruments Act (hereinafter ‘*NI Act*’) qua two cheques were filed in the court of Ld. JMIC Faridkot on 22.07.2013 and 15.10.2013, respectively. In both complaints, summoning orders dt. 22.07.2013 and 22.11.2013 were issued respectively in both complaints by Ld. JMIC Faridkot. In both complaint cases, the petitioner/accused put in appearance on 25.08.2014, and was admitted to bail. Ld. JMIC Faridkot then issued notice under Section 138 NI Act in both complaint cases deeming that prima facie offence was made out against the accused. When the case was fixed for evidence, in pursuance of judgment of the Hon’ble Supreme Court of India in ‘*Dashrath Rupsingh Rathod versus State of Maharashtra and another*’, *Criminal Appeal No.2287 of 2009 decided on 01.8.2014*, Ld. JMIC Faridkot, vide order dated 02.02.2015 ordered to return the complaint, holding that in accordance with the judgment, Section 177 of CrPC was to be complied with, and the cheque in question was drawn by the petitioner/accused on Oriental Bank of Commerce, Ferozepur Cantt. Ld. JMIC



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further directed that the complaint be filed within a period of 30 days before the proper court having territorial jurisdiction.

Thereafter, the petitioner/accused filed the complaints before SDJM, Jalalabad (W). Ld. SDJM, Jalalabad (W), in light of the decision of the Hon'ble supreme Court in *Dashrath (supra)* held that the complaint ought to have been filed within local jurisdiction of the court where the cheque is dishonoured by the bank on which it is drawn; the cheques in question were dishonoured within territorial jurisdiction of the court at Ferozepur, and accordingly, ordered the complaint to be returned, to be presented before the court at Ferozepur within a period of 30 days.

Consequently, the complainant approached the court of Ld. JMIC, Ferozepur, and filed the complaints in question. During pendency of the complaint cases before the Ld. JMIC, Ferozepur, two ordinances dated 15.06.2015 and 22.09.2015 were promulgated by the President of India whereby the complaints under Section 138 NI Act were maintainable where the drawer maintains the bank account. In light of the ordinances, Ld. JMIC, Ferozepur, vide order dated 04.12.2015 held that it had no jurisdiction to try the complaints, and directed that the complaint be file before the court having territorial jurisdiction within a period of 30 days.

As the complainant was a resident of Kotakpura, in accordance with the ordinances, the courts at Faridkot had the territorial jurisdiction to try the complaints. Hence, the complainant again filed the complaints before the Ld. JMIC, Faridkot. At this juncture, Ld. JMIC, Faridkot considered the question as to whether the complainant had complied with order dated 02.02.2015,



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whereby he was directed to approach the court of competent territorial jurisdiction. Ld. JMIC vide order dated 01.08.2017, dismissed the complaints with the observation that the complainant failed to approach the court of competent territorial jurisdiction i.e. Ld. JMIC, Ferozepur, in compliance of order dated 02.02.2015, and instead, filed the complaint before Ld. SDJM, Jalalabad; and as a consequence, refiling at Jalalabad as well Ferozepur itself became defective; subsequent refiling at Faridkot also, on the same account, became defective.

Challenging the aforementioned order of Ld. JMIC Faridkot, dated 01.08.2017, filed criminal revision before Ld. Additional Sessions Judge, Faridkot, who, vide orders dated 05.09.2019, in Criminal Revision No. 287 of 07.09.2017 and Criminal Revision No. 286 of 07.09.2017 respectively, qua the two complaints, set aside the order dt. 01.08.2017 passed by Ld. JMIC Faridkot, by observing that re-filing by the complainant at Jalalabad(West), then to Ferozepur, and then again at Faridkot, was due to changes of law, and the same was beyond the control of the complainant, and hence there were adequate and sufficient reasons for not being able to institute the complaint in time, and further directed to register/restore the complaint at its original number, and that the parties should appear on 18.10.2019.

Assailing the above said orders of the Ld. ASJ Faridkot dated 05.09.2019, the petitioner/accused has filed the present petitions seeking quashing of the same.

5. Learned counsel for the petitioner contended that the impugned order passed by the ld. ASJ Faridkot is not well-reasoned, and therein, the



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order of Ld. SDJM, Jalalabad dated 01.05.2015 has been wrongly been accorded validity. Ld. SDJM, Jalalabad neither had the territorial jurisdiction to entertain the complaint cases in question, nor to direct filing before the competent by extending a period of 30 days for such re-filing court. It was further contended that operation of the impugned order would result in miscarriage of justice as petitioner would be put to face trial on basis of a criminal complaint which is not maintainable in law, being time-barred. Hence, ld. Counsel for the petitioner sought that impugned order be quashed.

6. Learned Counsel for the respondent submitted that the impugned order passed by Ld. ASJ is well-reasoned and does not warrant interference. Proviso to clause (b) of subsection(1) of Section142 of NI Act makes room for courts to take cognizance of complaints under the Act beyond the period of limitation if sufficient cause for not filing complaint within the stipulated period is established; procedural law or technicalities cannot be allowed to defeat the substantive right of any litigant. Hence, it is in the interest of justice that such delay be condoned and the proceedings under section138 NI Act be allowed to continue.

7. Heard.

8. The petitions before this Court, although relate to a complaint under Section 138 NI Act, but the main question under consideration before this Court is as to maintainability of the complaints in view of alleged delay in filing them. A perusal of the orders beginning order dated 02.02.2015 passed by the Ld. JMIC, Faridkot, upto the impugned order dated 05.09.2019 passed by Ld. ASJ Faridkot, suggest that there have been multiple changes in



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the laws governing territorial jurisdiction of courts in complaints filed under Section 138 NI Act. The primary contention of the Ld. Counsel for the petitioner/accused is that root of the present matter traces back to order dated 01.05.2015 passed by Ld. SDJM, Jalalabad; that vide order dated 02.02.2015, Ld. JMFC Faridkot had directed the complainant to file the complaints before the competent court having territorial jurisdiction, i.e. Ferozepur, however, the petitioner/accused filed the same before Ld. SDJM, Jalalabad (W), and hence, the complainant failed to comply with order dated 02.02.2015, and as a consequence, the complaint was not filed within the prescribed period. Hence, Ld. Counsel for the petitioner is also questioning the validity of order dated 01.05.2015 passed by Ld. SDJM, Jalalabad by way of challenging the impugned order. However, the said order dated 01.05.2015 passed by Ld. SDJM, Jalalabad, has already attained finality, as it was never challenged by the petitioner, including in the present petition, and the same has now become time-barred.

On appreciation of the facts of the case and contentions of the learned counsel for the parties, it emanates that the complainant had been pursuing the complaint before forums lacking territorial jurisdiction. Although Ld. Counsel for the petitioner/accused is seeking to shake the foundation of the complaints filed by the complainant/respondent by suggesting that the complaints no longer remain maintainable on account of delay, however, this Court is of the view that simply because the complainant/respondent was litigating before the wrong forum, it does not mean that he was sleeping over his right, or that he did not diligently pursue the legal remedy available to him. Moreover, it has been correctly contended by Ld. Counsel for the respondent that technical



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and procedural irregularities cannot be allowed to vitiate the substantive rights of litigants, as it is settled principle of law that ‘*procedural law is the handmaiden of justice*’. Further, in the impugned order dated 05.09.2019, Ld. ASJ Faridkot has specifically observed that the complainant was pursuing the complaints before different forums, bonafide, and the said delay was caused due to change in law, initially, in light of judgement of the Hon’ble Supreme Court in *Dashrath (supra)*, and later, in light of the ordinances dated 15.06.2015 and 22.09.2015 promulgated by the President of India. In light of the aforesaid discussion, this Court is of the view that the accused/petitioner’s wrongdoing cannot be rewarded or condoned by forfeiting the complainant’s right to pursue his legal remedy on purely technical grounds. Section 482 CrPC endows courts with inherent powers of such scope and scale that every endeavour must be made to achieve the ends of justice, and the object of Section 138 NI Act is to ensure payment of the instruments, hence, this Court finds no merit in the present petitions, and the impugned order dated 05.10.2019 passed by Ld. ASJ Faridkot, is hereby upheld.

- 9. Accordingly, dismissed.
- 10. All miscellaneous application(s), if any, also stand disposed of.
- 11. A copy of this order be placed on the file of connected case.

02.04.2026
Geeta

(SUBHAS MEHLA)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No