

SHIVGIRI ASSOCIATES & ORS.

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v.

METSO MINERAL (INDIA) PVT. LTD.
(Criminal Appeal No. 1771 of 2014)

AUGUST 20, 2014

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[T.S. THAKUR AND VIKRAMAJIT SEN, JJ.]

Jurisdiction - Territorial jurisdiction - To entertain complaint u/s. 138 of Negotiable Instruments Act - Complaint filed in the court at Gurgaon (Haryana) - Maintainability of - Held: The courts at Gurgaon did not possess territorial jurisdiction to entertain the proceedings u/s. 138, because legal notice of demand had emanated from the city of Bangalore - Complaint returned to the complainant for refiling the same in the appropriate Court at Bangalore, Karnataka - Negotiable Instruments Act, 1881 - s. 138.

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Respondent-complainant filed petition u/s. 138 of Negotiable Instruments Act, 1881 before the Court at Gurgaon, Haryana. The complaint related to the dishonor of the cheque drawn on the Bank at Bangalore and which was presented for encashment to another Bank at Bangalore. When the Court at Gurgaon issued summons, the appellant challenged the same before High Court. High Court dismissed the case of the appellant holding that the courts at Gurgaon possessed jurisdiction to entertain the complaint. Hence the present appeal.

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Allowing the appeal, the Court

HELD: Issuance of the notice has relevance to the question of criminal territorial jurisdiction under Section 138 of the Negotiable Instruments Act. In the present case, the dishonoured cheques were drawn on the Appellant's Bank at Bangalore. Subsequently, on presentation of the

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A cheques for encashment by the Respondent through its Bankers at Bangalore, they were dishonoured. [Para 2] [281-F-G]

B 2. The courts at Gurgaon do not possess territorial jurisdiction to entertain the present proceedings under Section 138 of the Negotiable Instruments Act solely because, on the instructions of the Respondent, a legal notice of demand has emanated from that city. The Complaint be returned to the Complainant/Respondent for refiling in the appropriate Court at Bangalore, Karnataka. If the Complaint is re-filed in the appropriate Court in Bangalore within 30 days, it shall be deemed to have been filed within limitation. [Para 4] [282-C-D]

D *Dashrath Rupsingh Rathod v. State of Maharashtra* (2014) 9 SCALE 97 - relied on.

E *K. Bhaskaran v. Sankaran Vaidhyan Balan* (1999) 7 SCC 510; 1999 (3) Suppl. SCR 271; *Harman Electronics Private Limited v. National Panasonic India Private Limited* (2009) 1 SCC 720; 2008 (17) SCR 487 - referred to.

Case Law Reference:

	(2014) 9 SCALE 97	relied on	Para 2
F	1999 (3) Suppl. SCR 271	referred to	Para 2
	2008 (17) SCR 487	referred to	Para 2

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1771 of 2014.

G From the Judgment and Order dated 19.07.2013 of the High Court of Punjab & Haryana at Chandigarh in Criminal Misc. Case No. 32999 of 2010.

Jayant Bhushan, Dhruv Mehta, Madhav Khurana, Diksha

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Rai, G. Sivabalamurugan, Anis Mohd., B.R. Pandey, L.K. Pandey, Raghav Chadha, P.V. Yogeswaran, Munawwar Naseem, Sameer Abhayankar, Nitin Khare for the appearing parties.

The Judgment of the Court was delivered by

VIKRAMAJIT SEN, J. 1. Leave granted.

2. This Appeal assails the Order of the learned Single Judge of the High Court of Punjab & Haryana holding that since the notice as contemplated in Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'), had been dispatched from Gurgaon, Haryana and additionally, a response thereto was dispatched to and received at Gurgaon, Courts at Gurgaon possessed jurisdiction to entertain and decide the Complaint. In the impugned Judgment, several precedents have been mentioned and decisions of this Court, namely, *K. Bhaskaran v. Sankaran Vaidhyan Balan* (1999) 7 SCC 510 and *Harman Electronics Private Limited v. National Panasonic India Private Limited* (2009) 1 SCC 720 have been analysed and discussed. We need not dilate on this issue beyond mentioning and applying the recent decision dated 01.08.2014 in Criminal Appeal No.2287 of 2009 titled *Dashrath Rupsingh Rathod v. State of Maharashtra*. In view of the deliberations in *Dashrath Rupsingh*, the Appeal is allowed. It is no longer arguable that the issuance of the notice has relevance to the question of criminal territorial jurisdiction under Section 138 of the NI Act. In the case in hand, the dishonoured cheques were drawn on the Appellant's Bank, namely, Axis Bank, Bangalore. Subsequently, on presentation of the cheques for encashment by the Respondent through its Bankers, namely, Standard Chartered Bank, Bangalore, they were dishonoured. It is interesting to note, even though it may not be relevant for the present considerations, that the Respondent has filed a suit for recovery of money in New Delhi, repeatedly reiterating that the cause of action arose solely and squarely in New Delhi.

A 3. It appears that the learned Judicial Magistrate, First Class (Special Court), District Gurgaon, Haryana, on 14.6.2010 issued Summons to the Appellant. The Appellant thereupon approached the High Court of Punjab & Haryana at Chandigarh, which passed the impugned order. On 23.9.2013, this Court issued notice and also ordered that proceedings before the Trial Court shall remain stayed. It is evident, therefore, that evidence, post-summoning, has not been recorded.

C 4. It is in these circumstances that we allow the Appeal, as Courts at Gurgaon do not possess territorial jurisdiction to entertain the present proceedings under Section 138 of the NI Act solely because, on the instructions of the Respondent, a legal notice of demand has emanated from that city. The Complaint be returned to the Complainant/Respondent for refilling in the appropriate Court at Bangalore, Karnataka. As mentioned in Dashrath Rupsingh, if the Complaint is re-filed in the appropriate Court in Bangalore within 30 days, it shall be deemed to have been filed within limitation. The interim orders stand recalled, accordingly.

E 5. The parties shall bear their respective costs.

Kalpana K. Tripathy

Appeal allowed.