

A M/S. K.K. PLOYCOLOR INDIA LTD. & ORS.
v.
GLOBAL TRADE FINANCE LTD. & ANR.
(Criminal Appeal No.1914 of 2014)

B SEPTEMBER 04, 2014
[T.S. THAKUR, V. GOPALA GOWDA AND
C. NAGAPPAN, JJ.]

C *Negotiable Instrument Act, 1881 – s. 138 – Complaint*
under – *Dishonour of cheque – Territorial jurisdiction upon*
courts to entertain the complaint u/s. 138 where cheque
presented for collection – *Held: Presentation of a cheque for*
collection on the drawee bank or issue of a notice from a place
of the choice of the complainant would not by themselves
D confer jurisdiction upon the Courts where cheque is presented
for collection or the default notice issued demanding payment
from the drawer of the cheque.

E In the instant appeal, the issue pertains to the
jurisdiction of the Magistrate to entertain the complaint as
regards the dishonour of cheque.

F In criminal applications, the High Court relying upon
the case of **K. Bhaskaran v. Sankaran Vaidhyan Balan*, held
that the Magistrate in Bandra had the jurisdiction to
entertain the complaint as the cheque had been
presented before a bank at Bombay, the said fact being
sufficient to confer jurisdiction upon the Magistrate to
entertain the complaints and try cases. The order passed
by the revisional court that the Magistrate did not have
the jurisdiction to entertain the complaint was set aside
G and the Magistrate was directed to proceed with the trial
of the cases. Hence the instant appeals.

Allowing the appeals, the Court

HELD: A plain reading of the orders passed by the High Court would show that the judgment proceeds entirely on the authority of the decision of this Court in *K. Bhaskaran's case which has been reversed by this Court in **Dashrath Rupsingh Rathod v. State of Maharashtra and Anr. This Court in Dashrath Rupsingh Rathod's case held that presentation of a cheque for collection on the drawee bank or issue of a notice from a place of the choice of the complainant would not by themselves confer jurisdiction upon the Courts where cheque is presented for collection or the default notice issued demanding payment from the drawer of the cheque. Following the said decision, the High Court was wrong in interfering with the order passed by the Sessions Judge. The order passed by the High Court is set aside and the order passed by the Revisional Court is restored. [Para 4, 5] [521-D-G]

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

**Dashrath Rupsingh Rathod v. State of Maharashtra and Anr. (2014) 9 SCALE 97 – relied on.

Case Law Reference:

2008 (17) SCR 487	Referred to	Para 3
1999 (3) Suppl. SCR 271	Referred to	Para 3, 4
(2014) 9 SCALE 97	Relied on	Para 4.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1914 of 2014.

From the Judgment and Order dated 15.09.2010 of the High Court of Judicature at Bomaby in Criminal Application No. 2760 of 2010.

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WITH

Criminal Appeal Nos. 1915 and 1916 of 2014.

Vinay Kumar Shailendra, (In Person), Subhro Sanyal, Worthing Kasar, Vaibhav Rai Asithana, K.R. Sasiprabhu, E.C. Agrawala, Puja Sharma, Liz Mathew, K. Datta, Manish Srivastava, Rahul Malhotra, Praveen Agrawal for the Appellant.

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Annam D.N. Rao, A. Venketesh, Sudipto Sircar, Neelam Jain, Vaishali R., Shailender Bhardwaj, Subramonium Prasad, Anil Katiyar for the Respondents.

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The Judgment of the Court was delivered by

T.S. THAKUR, J. 1. Leave granted.

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2. These appeals arise out of an order dated 15th September, 2010 passed by the High Court of Judicature at Bombay whereby Crl. Application Nos.1491, 2759 and 2760 of 2010 have been allowed and the orders passed by the Magistrate set aside and the matter remitted back to the Magistrate with the direction that the criminal complaints filed by the complainants-respondents herein shall be disposed of expeditiously.

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3. Complaints under Section 138 of the Negotiable Instrument Act, 1880 appear to have been filed by the respondent-company in the Court of Metropolitan Magistrate, Bandra which were entertained by the Magistrate and process issued against the accused persons. Revision applications were then filed before the Court of Sessions at Bombay challenging the jurisdiction of the Magistrate to entertain the complaints. The Revisional Court relying upon *Harman Electronics Private Limited and Anr. v. National Panasonic India Private Limited* (2009) 1 SCC 720 held that the Magistrate did not have the jurisdiction to entertain the complaints. The orders passed by the Magistrate were set aside and the complaints directed to be returned for

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presentation before the competent Court. Aggrieved by the said orders the complainant preferred Criminal Applications No.1491, 2759 and 2760 of 2010 before the High Court who relying upon the decision of this Court in *K. Bhaskaran v. Sankaran Vaidhyan Balan* (1999) 7 SCC 510 and three other decisions of the Bombay High Court held that the Magistrate had the jurisdiction to entertain the complaint as the cheque had been presented before a bank at Bombay which fact was, according to the High Court, sufficient to confer jurisdiction upon the Magistrate to entertain the complaints and try the cases. The orders passed by the Revisional Court were accordingly set aside and the Magistrate directed to proceed with the trial of the cases expeditiously as already noticed. The present special leave petitions have been filed by the accused persons assailing the view taken by the High Court.

4. A plain reading of the orders passed by the High Court would show that the judgment proceeds entirely on the authority of the decision of this Court in *K. Bhaskaran's* case (supra). That decision has been reversed by this Court in *Dashrath Rupsingh Rathod v. State of Maharashtra and Anr.* (2014) 9 SCALE 97. This Court has, on an elaborate consideration of the provision of Section 138 and the law on the subject, held that presentation of a cheque for collection on the drawee bank or issue of a notice from a place of the choice of the complainant would not by themselves confer jurisdiction upon the Courts where cheque is presented for collection or the default notice issued demanding payment from the drawer of the cheque. Following the said decision we have no hesitation in holding that the High Court was wrong in interfering with the order passed by the Sessions Judge.

5. We accordingly allow these appeals and set aside the order passed by the High Court and restore those passed by the Revisional Court. The parties are, however, left to bear their own costs.