

A

SUKU

v.

JAGDISH & ANR.

(Criminal Appeal No. 1917 of 2014)

B

SEPTEMBER 4, 2014

[T.S. THAKUR, V. GOPALA GOWDA AND
C. NAGAPPAN, JJ.]

C

Negotiable Instruments Act, 1881 – s. 138 – Complaint under, for dishonour of cheque – Territorial jurisdiction upon the courts to take cognizance where cheque was presented or notice issued – Held: Presentation of a cheque by the complainant at a place of his choice or issue of notice by him to the accused demanding payment of the cheque amount not sufficient by themselves to confer jurisdiction upon the courts – Thus, order passed by the High Court that the presentation of the cheque to a bank in Kerala would not by itself confer jurisdiction on the Kerala Court, does not call for interference.

E

The question which arose for consideration before this Court was whether the presentation of cheque by the complainant in a bank, having branch in Kerala conferred jurisdiction upon the courts at Kerala to entertain a complaint u/s.138 of the Negotiable Instruments Act, 1881 and try the accused persons for the offence when the cheque was issued by the respondent on the bank, having branch in Karnataka.

F

G

The Magistrate held that the court at Kerala had no territorial jurisdiction to entertain the same. The High Court relying upon the decision of this Court in **Harman Electronics Private Limited* that the issue of notice to the drawer of the cheque does not by itself give rise to a cause of action to confer jurisdiction upon the courts to

H

take cognizance, held that the presentation of the cheque to a bank in Kerala would not by itself confer jurisdiction on the Kerala Court.

Dismissing the appeals, the Court

HELD: The view taken by the Magistrate based as it is on the decision of this Court in **Harman Electronics Private Limited* does not, call for any interference by this Court, in the light of the pronouncement of this Court in ***Dashrath Rupsingh Rathod* where this Court has held that presentation of a cheque by the complainant at a place of his choice or issue of notice by him to the accused demanding payment of the cheque amount are not sufficient by themselves to confer jurisdiction upon the courts where such cheque was presented or notice issued. The order passed by the High Court is upheld. [Para 4] [525-B-D]

**Harman Electronics Private Limited and Anr. v. National Panasonic India Private Limited 2008 (17) SCR 487 : (2009) 1 SCC 720; **Dashrath Rupsingh Rathod v. State of Maharashtra and Anr. (2014) 9 SCALE 97 – referred to.*

Case Law Reference :

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

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1917 of 2014.

From the Judgment and Order dated 15.06.2011 in Crl. M.C. No. 514 of 2011 of the High Court of Kerala at Ernakulam.

WITH

Criminal Appeal No. 1918 of 2014.

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

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

The Judgment of the Court was delivered by

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

D 2. These appeals arise out of an order dated 15th June, 2011 passed by the High Court of Kerala at Ernakulam whereby the High Court has held that the presentation of a cheque by the complainant in a bank at Krishnapuram, Kayamkulam, Kerala did not confer jurisdiction upon Courts at Kayamkulam to entertain a complaint under Section 138 of the Negotiable Instruments Act and try the accused persons for the offence.

E 3. It is not in dispute that the cheque in question was issued by the respondent on Syndicate Bank, Gokaran branch in Karnataka which was presented for collection by the complainant at Krishnapuram, Kayamkulam, Kerala but dishonoured for insufficiency of funds. The complainant then
F filed complaint at Kayamkulam in the State of Kerala which were returned by the Magistrate to be filed before the proper Court as the Court at Kayamkulam, Kerala, had no territorial jurisdiction to entertain the same. The matter was taken up before the High Court by the complainants in Crl. M.C. Nos.514 of 2011 and 1653 of 2011 which the High Court has dismissed
G by the impugned order holding that the presentation of the cheque to a Bank in Kerala would not by itself confer jurisdiction upon the Kerala Court. The High Court has in support of that view relied upon the decision of this Court in *Harman Electronics Private Limited and Anr. v. National Panasonic*
H

India Private Limited (2009) 1 SCC 720 where this Court held that the issue of notice to the drawer of the cheque does not by itself give rise to a cause of action to confer jurisdiction upon the Court to take cognizance.

A

4. The view taken by the Magistrate based as it is on the decision of this Court in *Harman's case* (supra) does not, in our opinion, call for any interference by this Court, in the light of the pronouncement of this Court in *Dashrath Rupsingh Rathod v. State of Maharashtra and Another* (2014) 9 SCALE 97 where this Court has examined the issue at some length and held that presentation of a cheque by the complainant at a place of his choice or issue of notice by him to the accused demanding payment of the cheque amount are not sufficient by themselves to confer jurisdiction upon the courts where such cheque was presented or notice issued. Following the decision in *Dashrath Rupsingh Rathod's case* (supra), we affirm the order passed by the High Court.

B

C

D

5. These appeals accordingly fail and are, hereby, dismissed but in the circumstances without any orders as to costs.

E

Nidhi Jain

Appeals dismissed.