



INDIALAW

LAW

NEGOTIABLE INSTRUMENT

Recent developments in the Negotiable Instruments Act, 1881

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1. M/s. Bridgestone India Pvt. Ltd. vs. Inderpal Singh

The Supreme Court in the case of *M/s. Bridgestone India Pvt. Ltd. vs. Inderpal Singh*^[1] has held that pursuant to Sections 3 and 4 of the Negotiable Instruments (Amendment) Second Ordinance 2015 (“**Ordinance**”), the place where a cheque is delivered for collection i.e., the branch of the bank of the payee or holder in due course, where the drawee maintains an account, would be the place of territorial jurisdiction for filing a complaint under Section 138 of the Negotiable Instruments Act, 1881 (“**Act**”).

Facts of the Case

In the present case, a cheque was issued by the Respondent drawn on the Union Bank of India, Chandigarh Branch, to the Appellant for a particular sum of money. The Appellant presented this cheque at IDBI Bank, Indore for payment. On 04.08.2006, IDBI Bank, Indore Branch intimated the Appellant that the cheque had been dishonored, since it exceeded the arrangement made by the Respondent with his bank. Such a response is typically issued by a payee’s bank, when the cash credit or overdraft limit of drawings has already been exhausted / drawn by a drawer, and the cheque presented is now, in excess of the drawer’s credit arrangement with his bank. Consequently, a legal notice was issued by the Appellant on 26.08.2006 to the Respondent demanding the payment of the cheque within 15 days from the date of receipt of the said notice. However, the Respondent failed to reimburse the cheque within the stipulated time period.

Consequently, the Appellant filed a suit before the Court of the Judicial Magistrate, First Class, Indore (“**Trial Court**”), under Section 138 of the Act. The Respondent challenged the territorial jurisdiction of the Court through an application under Section 177 of Criminal Procedure Code, 1973. However, the Court denied the application.

Aggrieved by the decision of the Trial Court, the Respondent filed a petition in the High Court of Madhya Pradesh, Indore Bench. The High Court accepted the prayer of the Respondent following the ratio of the Apex Court in *Dashrath Rupsingh Rathod vs. State of Maharashtra*^[1] which held that the jurisdiction in cases pertaining to dishonor of cheques lies only before the Court wherein the original drawee bank was located, namely, at Chandigarh in the present case.

Decision of the Supreme Court

Aggrieved by such order passed by the High Court, the Appellant approached the Supreme Court.

The Appellant relied on Sections 3 and 4 of the Ordinance, which had come into force on 15.06.2015. Section 3 of the Ordinance inserts Sub-section (2) in the Section 142 of the Act which sets up the territorial jurisdiction of the courts of the payee banks and their branches, in case of dishonor of cheques. Further, Section 4 of the Ordinance inserts an additional Section 142A in the Act, which directs transfer of all the pending cases to a court of the competent jurisdiction under Section 3 of the Ordinance.

This decision succeeded in breaking the judicial limbo caused so far, when the Supreme Court, held that the Ordinance will have a retrospective effect and any complaint under Section 138 of the Act will be filed in the place where the cheque is delivered for collection i.e., the branch of the bank of the payee, or holder in due course, or where the drawee maintains an account. It distinguished the judgment rendered in *Dashrath’s* case, to have no effect in view of the Ordinance.

Thus, setting aside the High Court’s order in the present case, it was held that the Trial Court had the jurisdiction to take cognizance of the proceedings initiated by the Appellant.

2. Negotiable Instruments (Amendment) Bill, 2015

In addition to the aforesaid judgment of the Supreme Court, the Negotiable Instrument (Amendment) Bill 2015 (“**Amendment**”) came to be passed by both the Houses of the Parliament on 07.12.2015, which further clarified that cheque bounce cases were to be filed in the courts which had jurisdiction over places where the cheque was presented for clearance or payment, and not the place of issue. And if a complaint against a person issuing a cheque had been filed in the court with the appropriate jurisdiction, then all subsequent complaints against that person would be filed in the same court, irrespective of the relevant jurisdiction area. The said amendments to the Negotiable Instruments Act will have far-reaching implications for over 18 lakh cheque bounce cases across the country, of which about 38,000 are pending in High Courts.

^[1](2014) 9 SCC 129

^[1]CRIMINAL APPEAL No.1557 OF 2015