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NEGOTIABLE INSTRUMENT

Vijay Kumar Shailendra vs. The Delhi HC Legal Service Committee : Jurisdiction of cheque dishonour cases

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The Supreme Court has given one more judgment indicating that courts should take the jurisdiction in cheque dishonor cases only if the bank that dishonored the cheque is situated within its jurisdiction.

The Apex Court has, vide its judgment dated 4 September, 2014, disposed off five appeals[1] before it relating the jurisdiction issue under sec. 138 of the Negotiable Instruments Act, 1881. In all the cases, the complaints were filed either at those places from where the notice had been issued by the drawee of the cheque, or where the cheques were presented for encashment. In one[2] of the five appeals heard by the Supreme Court, the complaint was filed in the Delhi Metropolitan Court because the statutory notices under sec. 138 were issued by the drawee of the cheque from Delhi. In rest of the appeals heard by the Supreme Court, the reason for filing the complaint at a particular jurisdiction was either the issuance of notice by the drawee from that place, or the presentation of cheque was in the bank situated at that place. Filing of numerous cases before Delhi Metropolitan Magistrate by various parties (including Banks, NBFC etc.) has resulted in numerous cheque dishonor cases before the Delhi Metropolitan Magistrate. To address this backlog of cases before the Delhi Metropolitan Magistrate, the Delhi High Court Legal Service Committee filed a Public Interest Litigation reasoning that, the cognizance has been taken by the court even though it had no jurisdiction.

The Supreme Court while referring to its judgment in Dashrath Rupsingh case[3], held that the Apex Court has already made the jurisdiction issue clear in the Dashrath case. The Supreme Court, in Dashrath case, stated that the complaint should be filed in that court within whose jurisdiction the bank that dishonored the cheque is situated. The Apex Court further held that issuance of the notice is not an ingredient of the cause of action as it is a proviso which leads to the cause of action. In Dashrath case, the Apex Court stated that if the complaint is allowed to be filed at the places from where the statutory notice has been issued or the cheque is presented, it will cause unnecessary hardship to the accused.

The Supreme Court judgment, however, did not mention anything about the jurisdiction aspect in case of "At Par" cheques.

[1] The five appeals disposed are : *Vinaykumar Shailendra vs. The Delhi High Court Legal Service Committee*, Civil appeal no. 8468 of 2014; *Times Business Solutions vs. Data Byte Cr.* Appeal no. 1912 of 2014 and 1913 of 2014; *K.K.Polycolor India Ltd. & Ors. vs. Globle Trade Finance Ltd. & Anr.* Cr. Appeal no. 1915 of 2014 and 1916 of 2014; *Suku vs. Jagdish and Anr.* Cr. Appeal no. 1918 of 2014 and *T.A.M.A Jawahar vs. ArunKumar Gupta* CRL. No. 4 of 2012.

[2] *Vinaykumar Shailendra Vs. The Delhi High Court Legal Service Committee*, Civil appeal no. 8468 of 2014

[3] *Dashrath Rupsingh Rathod vs. State of Maharashtra and other*, 2014(9) SCALE 97