
(2014) 09 RAJ CK 0004

In the Rajasthan High Court

Case No : SB Criminal Revision Petition No. 494 of 2011

Yogesh Jayaswal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397 401
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2015) ALLMR(Cri) 350

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Advocate : Anil Upman, Advocate for the Appellant; N.S. Dhakad, PP, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Kanwaljit Singh Ahluwalia, J.

1. The present revision petition under Section 397 read with Section 401 Cr.P.C. has been filed by the accused petitioner to assail the order dated 19th April, 2011 passed by the court of Additional Sessions Judge (Fast Track) No. 3, Jaipur Metropolitan, Jaipur whereby he had set aside the order dated 13th August, 2010 passed by the Special Magistrate (NI Act Cases) No. 2, Jaipur Metropolitan, Jaipur whereby the complaint was returned to the complainant to institute the same in the court of competent jurisdiction. In the present case, no details have been given as to where the petitioner was maintaining his bank account and at which place the cheque was and presented and by which bank the same was returned. A perusal of the order passed by the Magistrate where by the complaint was returned reveal that the Magistrate after taking cognizance, on the application filed by the accused had returned the complaint on the ground that place of residence of the complainant can be no ground to vest territorial jurisdiction in the complainant.

2. The revisional court below holding that both the accused and complainant are

residents of Jaipur City and, therefore, the Magistrate had jurisdiction to try the accused had set aside the order of the Magistrate.

3. Recently, Hon"ble Apex Court on 1st August, 2014 in CRIMINAL APPEAL No. 1593 OF 2014 [Arising out of S.L.P.(Crl.) No. 2077 of 2009] : Dashrath Rupsingh Rathod Vs. State of Maharashtra, . has settled the controversy regarding territorial jurisdiction of the court to try the complaint instituted under Section 138 of the Negotiable Instruments Act.

4. This Court is already flooded with the numerous petitions assailing the territorial jurisdiction of the court to try the complaint instituted under Section 138 of the Negotiable Instruments Act. Hence, a direction is issued to the Registrar General of this Court to issue a Circular in the light of the judgment rendered by the Hon"ble Apex Court in the case of Dashrath Rupsingh Rathod Vs. State of Maharashtra, to the courts of all Magistrates in the State of Rajasthan directing every Magistrate before whom complaint under Section 138 of the Negotiable Instruments Act is pending, to decide question of territorial jurisdiction in consonance with the law laid by the Hon"ble Apex Court in the case of Dashrath Rupsingh Rathod Vs. State of Maharashtra, . The Court of Magistrate shall carry a scrutiny on date fixed and after hearing all concerned, if required, in consonance with the law laid by Hon"ble Apex Court in Dashrath Rupsingh Rathore shall return the complaint to the complainant to be filed in the court of appropriate/competent jurisdiction.

5. So far as the present revision petition is concerned, order passed by the court of Magistrate and the order passed by the revisional court below are set aside and the matter is remitted back to the trial court to decide the application filed by the accused petitioner afresh in consonance with the law laid in Dashrath Rupsingh Rathod Vs. State of Maharashtra, case (supra) after hearing all concerned. Needful shall be done by the court below within 15 days after receipt of certified copy of this order.

6. In view of the direction issued above, present petition is, disposed of. Upon final disposal of the main petition, the stay application filed therewith does not survive and same also stands disposed of.