

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1771 OF 2014

[Arising out of SLP(Crl.)No. 7653 of 2013]

SHIVGIRI ASSOCIATES & ORS.

.....Appellants

Vs.

METSO MINERAL (INDIA) PVT.LTD.

.....Respondent

J U D G M E N T

VIKRAMAJIT SEN, J.

1 Leave granted.

2 This Appeal assails the Order of the learned Single Judge of the High Court of Punjab & Haryana holding that since the notice as contemplated in Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'), had been dispatched from Gurgaon, Haryana and additionally, a response thereto was dispatched to and received at Gurgaon, Courts at Gurgaon possessed jurisdiction to entertain and decide the Complaint. In the impugned Judgment, several precedents have been mentioned and decisions of this Court, namely, K. Bhaskaran v. Sankaran Vaidhyan Balan (1999) 7 SCC 510 and Harman Electronics Private

Limited v. National Panasonic India Private Limited (2009) 1 SCC 720 have been analysed and discussed. We need not dilate on this issue beyond mentioning and applying the recent decision dated 01.08.2014 in Criminal Appeal No.2287 of 2009 titled **Dashrath Rupsingh** Rathod v. State of Maharashtra. In view of the deliberations in **Dashrath Rupsingh**, the Appeal is allowed. It is no longer arguable that the issuance of the notice has relevance to the question of criminal territorial jurisdiction under Section 138 of the NI Act. In the case in hand, the dishonoured cheques were drawn on the Appellant's Bank, namely, Axis Bank, Bangalore. Subsequently, on presentation of the cheques for encashment by the Respondent through its Bankers, namely, Standard Chartered Bank, Bangalore, they were dishonoured. It is interesting to note, even though it may not be relevant for the present considerations, that the Respondent has filed a suit for recovery of money in New Delhi, repeatedly reiterating that the cause of action arose solely and squarely in New Delhi.

3 It appears that the learned Judicial Magistrate, First Class (Special Court), District Gurgaon, Haryana, on 14.6.2010 issued Summons to the Appellant. The Appellant thereupon approached the High Court of Punjab & Haryana at Chandigarh, which passed the impugned order. On 23.9.2013, this Court issued notice and also ordered that proceedings

before the Trial Court shall remain stayed. It is evident, therefore, that evidence, post-summoning, has not been recorded.

4 It is in these circumstances that we allow the Appeal, as Courts at Gurgaon do not possess territorial jurisdiction to entertain the present proceedings under Section 138 of the NI Act solely because, on the instructions of the Respondent, a legal notice of demand has emanated from that city. The Complaint be returned to the Complainant/Respondent for refiling in the appropriate Court at Bangalore, Karnataka. As mentioned in **Dashrath Rupsingh**, if the Complaint is re-filed in the appropriate Court in Bangalore within 30 days, it shall be deemed to have been filed within limitation. The interim orders stand recalled, accordingly.

5 The parties shall bear their respective costs.

JUDGMENT

.....J.
[T.S. THAKUR]

.....J.
[VIKRAMAJIT SEN]

New Delhi;
August 20, 2014.