

## "Court having Jurisdiction over Payee's Bank Branch Shall Prosecute the Offence": Hon'ble Supreme Court

written by Praveen Pandey | October 9, 2020



Courts Jurisdiction Under the NI Act: Observations of the Hon'ble SC  
The Hon'ble Supreme Court Single bench comprising Justice V. Ramasubramanian dismissed a transfer petition in the matter of *M/S Himalaya Self Farming Group & Anr. Vs. M/S Goyal Feed Suppliers*<sup>[1]</sup> and held that under the Negotiable Instruments Act if the cheque is delivered for receipt into an account, the court under whose jurisdiction the branch of the bank where the payee holds the account is located shall have the power to prosecute the offence.

### Facts

In the said case, the M/S Himalaya Self Farming Group ("Petitioner") has made a prior complaint to the police about the loss that he sustained on account of the poor quality of feed supplied by the M/S Goyal Feed Suppliers ("Respondent"). While pointing to some payment issue, the Respondent under section 138 of the Negotiable Instruments Act filed a cheque bouncing case against the Petitioner before the Additional Chief Judicial Magistrate, Agra, Uttar Pradesh.

Thereafter, the Petitioner had filed the transfer petition under section 406 of CrPC before Hon'ble Supreme Court and requested the court to transfer of the proceedings filed by the respondent under Section 138 of the Negotiable Instrument Act. However, the said case is pending before District Court, Agra, Uttar Pradesh and the petitioner wanted to transfer the case to the competent District Court at Siliguri, Darjeeling, West Bengal.

### Submission - Courts Jurisdiction Under the NI Act

The counsel for Petitioner stated three reasons for the proceedings to be transferred to Siliguri which are given below:

1. All disputes between the parties are made subject to the jurisdiction of the Siliguri courts under the distribution challan;
2. The Petitioners had already lodged a criminal complaint on 29.05.2017 concerning the offences committed by the Respondent and that the present proceedings started on 27.10.2018, during the pending duration of the criminal complaint; and
3. There was no reason to lodge a complaint at Agra when the Respondent had its head office in Siliguri except to annoy the Petitioner.

## Judgment

The Hon'ble Court stated that the delivery challan wherein it is mentioned that all disputes shall be subject to the jurisdiction of the courts of Siliguri; it shall be understood by the Petitioner to constitute a bar for the courts of any other jurisdiction to hear the proceedings, it shall always be available to the petitioners to refer the point to the Court of Agra. It should not be a reason for pursuing a transfer.

Further, the Hon'ble Court also observed and stated the fact that the Respondent has its head office in Siliguri and that, with the exception of harassing the petitioners, there is no reason why it chooses to file a complaint in Agra can not constitute a basis for seeking a transfer as well. Under Section 142(2)(a) of the Negotiable Instruments Act, if the cheque is delivered for receipt into an account, the court under whose jurisdiction the branch of the bank where the payee holds the account is located shall have power to prosecute the offence. All the grounds on which the petitioners request a move are, not justified by them.

The Hon'ble Supreme Court three judges bench in the matter of *Dashrath Rupsingh Rathod vs. State of Maharashtra*<sup>[2]</sup> held that a complaint related to the dishonor of Cheque can be tried only by the court within whose local jurisdiction the offence was committed. In the present case, this is where the cheque was dishonoured by the bank where it was drawn.

In the Negotiable Instruments (Amendment) Act, 2015<sup>[3]</sup>, it is mentioned that the offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,— (a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or (b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

## Conclusion - NI Act

It is always a question of law that arises in cheque bouncing cases regarding the jurisdiction and filing of a new case. In the present case, the petitioner had filed a transfer petition before the Hon'ble Court and sought transfer of the negotiable instrument case on the basis that as per the Challan delivery, all disputes between the parties are subject to the jurisdiction of Siliguri courts. It was also mentioned that the respondent has its head office in Siliguri and there was no reason to file a complaint at Agra except to harass the petitioner.

The Hon'ble Court was not satisfied with the reasons for the petitioner and very well dealt with the petition. However, the said matter is a transfer petition but, it closely deals with the negotiable instrument case as well and as and, it is a settled proposition of law regarding NI Act cases the court under whose jurisdiction the branch of the bank where the payee holds the account is located shall have the power to prosecute the offence. In light of the above discussion and the judgment passed by the Hon'ble Court, the law is very clear regarding the filing of the cases under the NI Act.

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- <sup>[1]</sup> Transfer Petition (Criminal) No.273 of 2020
  - <sup>[2]</sup> (2014) 9 SCC 129
  - <sup>[3]</sup> <http://egazette.nic.in/WriteReadData/2015/164444.pdf>
  - <sup>[4]</sup> Courts Jurisdiction Under the NI Act

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