Volume-3, Issue-9, Sept-2014 • ISSN No 2277 - 8160

Research Paper Law

Jurisdiction of Cases For Dishonour of Cheque in the Pretext of the Statutory Laws & Recent Judgments

Ganga Dutt Sharma

ABSTRACT

Appreciates, supports and analyses of the statutory provision regarding the jurisdiction for the cases of Dishonour of cheque and the dimensions given by the Apex Court on the same. Identifies relevant steps taken under the statute for the protection and betterment of complainant and accused and a thorough study of the Recent Apex Court Decision on the jurisdictional aspect.

KEYWORDS : Negotiable Instrument, Jurisdiction, Dishonour of Cheque, Prcedent, Judicial Approach, Inquiry, Cheque, Cognizance, Bill Of Exchange

Introduction

In India there is reason to believe that Instrument of Exchange were in use from early times and the use of paper representing money were introduced by one of the Mohammadan Sovereigns of Delhi in the early part of the Fourth century. The word "Hundi" a generic term used to denote the instrument of Exchange in Vernacular is derived from the Sanskrit Root "Hund" meaning "to collect." With the advent and increase of the trade and business there was great demand to use the paper currency as the huge amount cannot be transferred in the coin currency. First time in 1866, the Indian Law commission of India drafted the Negotiable Instrument Bill which was introduced in the council in December, 1867. The bill had to be redrafted in 1877. In 1880 by the order of the Secretary of the State the bill had to be referred to a new Law Commission. On the recommendation of the new Law Commission the bill was redrafted and again it was sent to a Select Committee which adopted most of the additions recommended by the new Commission. The draft thus prepared for the fourth time was introduced in the council and passed on 9th December 1881. It came into force on 1st day of March 1882.

Negotiable Instruments[1]

Negotiable Instruments, as per section 13 of the Negotiable Instrument Act, means a Promissory note, Bill of Exchange or Cheque payable either to order or to bearer. Negotiation under section 14 of the act means when a Promissory note, Bill of Exchange or Cheque is transferred to any person, so as to constitute the person the holder thereof, the instrument is said to be negotiated.

1. Promissory note : Section 4 of the N I Act, 1881 defines the promissory note as an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking signed by the maker to pay a certain sum of money only to or to the order of, a certain person, or to bearer of the instrument.

2. Bill of exchange : Section 5 of the N I Act, 1881 defines the bill of exchange as an instrument in writing containing an unconditional undertaking signed by the maker, directing a certain person to pay a certain sum of money only to or to the order of, a certain person, or to bearer of the instrument.

3. Cheque : Section 6 if the N I Act, 1881 defines the cheque as a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of truncated cheque and the cheque in the electronic form.

Jurisdiction

Jurisdiction of the courts can be classified under the following categories

1. Territorial / Local Jurisdiction : - Every Court has its own local or territorial limits beyond which it cannot exercise its jurisdiction. This limits are fixed by the Government.

2. Pecuniary Jurisdiction : Pecuniary means monetary. It means that the relief asked by the plaintiff is also classified on the basis of the valuation of the suit. It is governed by the Suit Valuation Act as well as Court Fees Act. Different States have defined different pecuniary jurisdiction in their respective Court Fees Act.

3. Jurisdiction as to Subject Matter : Different Courts are empowered to decide different types of suits. Certain courts are precluded from entertaining certain suits/claim. Special Courts are designated for various subject matter. For eg. Family Courts for family dispute. Special N I Court for disputed qua dishonor of cheques.

4. Original or Appellate Jurisdiction : The Trial/District and in some States High Courts have the original civil jurisdiction. For example the original ordinary jurisdiction for entertaining suits relating to trademark/copyrights is with District Court and High Courts in some States as the law on the subject provides the same. In ordinary courts the original ordinary jurisdiction is Civil Court.

Statutory Laws on Dishonour and Its jurisdiction

The Negotiable Instrument Act[1]

Section 138. Dishonour of cheque for insufficiency, etc., of funds in the account.

Where any cheque drawn by a person on an ***account maintained by him*** with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the **amount of money standing to the credit of that account is insufficient to honour the cheque** or that it **exceeds the amount arranged to be paid from that account by an agreement made with that bank**, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, **be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both:**

Provided that nothing contained in this section shall apply unless-

(a) the cheque has been **presented to the bank within a period of six months** from the date on which it is drawn or within the period of its validity, whichever is earlier.

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a **notice in writing**, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the **drawer of such cheque fails to make the payment** of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, **within fifteen days** of the receipt of the said notice.

Explanation. For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability.

Section 142. Cognizance of offences.-Notwithstanding anything con-

tained in the Code of Criminal Procedure, 1973 (2 of 1974)

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;
(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138;

Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period.

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138."

Code of Criminal Procedure, 1973

Section 177 provides Ordinary place of inquiry and trial.- Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

Section 178. Place of inquiry or trial.- (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or
(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or
(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Section 179. Offence triable where act is done or consequence ensues.- When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued."

CIVIL LAW CONCEPTS OF JURISDICTION NOT STRICTLY APPLICABLE[3]

Hon'ble Mr. Justice Vikramajit Sen held, on first of august 2014, in the case of **Dashrath Rupsingh Rathod Versus State Of Maharashtra & Anr**.[2] held that the civil law concept as enshrined under section 20 of the code of Civil Procedure is not strictly applicable to the cases under the negotiable cases. Further the Hon'ble Apex court cautioned against the extrapolation of civil law concepts such as "cause of action" onto criminal law. Section 177 of the CrPC unambiguously states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. "Offence", by virtue of the definition ascribed to the word by Section 2(n) of the CrPC means any act or omission made punishable by any law.

Further the Juristic views are quoted in the said judgment. Some of these are as follows Halsbury states that the venue for the trial of a crime is confined to the place of its occurrence. Blackstone opines that crime is local and jurisdiction over it vests in the Court and Country where the crime is committed. This is obviously the *raison d'etre* for the CrPC making a departure from the CPC in not making the "cause of action" routinely relevant for the determination of territoriality of criminal courts. The word "action" has traditionally been understood to be synonymous to "suit", or as ordinary proceedings in a Court of justice for enforcement or protection of the rights of the initiator of the proceedings.

Unlike civil actions, where the plaintiff has the burden of filing and proving its case, the responsibility of investigating a crime, marshalling evidence and witnesses, rests with the State. Therefore, while the convenience of the Defendant in a civil action may be relevant, the convenience of the so called complainant/victim has little or no role to play in criminal prosecution. Keeping in perspective the presence of the word "ordinarily" in Section 177 of CrPC, Hon'ble Court hasten to adumbrate that the exceptions to it are contained in the CrPC itself, that is, in the contents of the succeeding Section 178. The CrPC also contains an explication of "complaint" under section 2 sub clause "d" , as any allegation to a Magistrate with a view to his taking action in respect of the commission of an offence; not being a police report. Prosecution ensues from a Complaint or police report for the purpose of determining the culpability of a person accused of the commission of a crime; and unlike a civil action or suit is carried out by the State or its nominated agency.

The principal definition of "prosecution" imparted by Black's Law Dictionary is "a criminal action; the proceeding instituted and carried on by due process of law, before a competent Tribunal, for the purpose of determining the guilt or innocence of a person charged with crime." These reflections are necessary because Section 142(b) of the NI Act contains the words, "the cause of action arises under the proviso to Section 138", resulting arguably, but in our opinion irrelevantly, to the blind borrowing of essentially civil law attributes onto criminal proceedings. We reiterate that Section 178 admits of no debate that in criminal prosecution, the concept of "cause of action", being the bundle of facts required to be proved in a suit and accordingly also being relevant for the place of suing, is not pertinent or germane for determining territorial jurisdiction of criminal Trials. Section 178, CrPC explicitly states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 179 is of similar tenor. We are also unable to locate any provision of the NI Act which indicates or enumerates the extraordinary circumstances which would justify a departure from the stipulation that the place where the offence is committed is where the prosecution has to be conducted. In fact, since cognizance of the offence is subject to the five ***Bhaskaran*** components or concomitants the concatenation of which ripens the already committed offence under Section 138 NI Act into a prosecutable offence, the employment of the phrase "cause of action" in Section 142 of the NI Act is apposite for taking cognizance, but inappropriate and irrelevant for determining commission of the subject offence. There are myriad examples of the commission of a crime the prosecution of which is dependent on extraneous contingencies such as obtainment of sanction for prosecution under Section 19 of the Prevention of Corruption Act 1988. Similar situation is statutorily created by Section 19 of the Environmental Protection Act 1986, Section 11 of the Central Sales Tax Act 1956, Section 279 of the Income Tax Act, Sections 132 and 308, CrPC, Section 137 of the Customs Act etc. It would be idle to contend that the offence comes into existence only on the grant of permission for prosecution, or that this permission constitutes an integral part of the offence itself. It would also be futile to argue that the place where the permission is granted would provide the venue for the trial. If sanction is not granted the offence does not vanish. Equally, if sanction is granted from a place other than where the crime is committed, it is the latter which will remain the place for its prosecution.

PRECEDENTS

Hon'ble Supreme Court of India in the case of **K. Bhaskaran vs. Sankaran Vaidhyan Balan And Anr**.[3] held that ***"****The offence under Section 138 of the Act can be completed only with the concatenation of a number of acts. The following are the acts which are components of the said offence:*

(1) drawing of the cheque,
(2) presentation of the cheque to the bank,
(3) returning the cheque unpaid by the drawee bank,
(4) giving notice in writing to the drawer of the cheque demanding payment of the cheque amount,
(5) failure of the drawer to make payment within 15 days of the receipt of the notice.

It is not necessary that all the above five acts should have been perpetrated at the same locality. It is possible that each of those five acts could be done at five different localities. But a concatenation of all the above five is a sine qua non for the completion of the offence under Section 138 of the Code. In this context a reference to Section 178(d) of the Code is useful. It is extracted as "*Where the offence consists of several acts done in different local areas, it may be enquired into or tried by a court having jurisdiction over any of such local areas.*"

Thus it is clear, if the five different acts were done in five different localities any one of the courts exercising jurisdiction in one of the five local areas can become the place of trial for the offence under Sec-

tion 138 of the Act. In other words, the complainant can choose any one of those courts having jurisdiction over any one of the local areas within the territorial limits of which any one of those five acts was done. As the amplitude stands so widened and so expansive it is an idle exercise to raise jurisdictional question regarding the offence under Section 138 of the Act."

The first blow to the view taken by the Apex Court in ***Bhaskaran's*** case was dealt by a three-Judge Bench decision in ***Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd*** [4]. The question that arose in that case was whether the limitation of six months for presentation of a cheque for encashment was applicable *viz-a-viz* presentation to the bank of the payee or that of the drawer. High Courts in this country had expressed conflicting opinions on the subject. This Court resolved the cleavage in those pronouncements by holding that the cheque ought to be presented to the drawee bank for its dishonour to provide a basis for prosecution under Section 138.

Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd [4] case did not deal with the question of jurisdiction of the Courts nor was ***Bhaskaran*** noticed by the Court while holding that the presentation of the cheque ought to be within six months to the drawee bank. But that does not materially affect the logic underlying the pronouncement, which pronouncement coming as it is from a bench of coordinate jurisdiction binds us. When logically extended to the question of jurisdiction of the Court to take cognizance, we find it difficult to appreciate how a payee of the cheque can by presentation of the cheque to his own bank confer jurisdiction upon the Court where such bank is situate. If presentation referred to in Section 138 means presentation to the "drawee bank", there is no gainsaying that dishonour would be localised and confined to the place where such bank is situated.

Further it was held that the payee may and indeed can present the cheque to any bank for collection from the drawee bank, but such presentation will be valid only if the drawee bank receives the cheque for payment within the period of six months from the date of issue. Dishonour of the cheque would be localised at the place where the drawee bank is situated. Presentation of the cheque at any place, we have no manner of doubt, cannot confer jurisdiction upon the Court within whose territorial limits such presentation may have taken place.

In **Prem Chand Vijay Kumar Versus Yashpal Singh**[5], another two-Judge Bench held that upon a notice under Section 138 of the NI Act being issued, a subsequent presentation of a cheque and its dishonor would not create another 'cause of action' which could set the Section 138 machinery in motion. In that view, if the period of limitation had run out, a fresh notice of demand was bereft of any legal efficacy.

In **Shamshad Begum Versus B. Mohammed**[6] case applied ***Bhaskaran*** and concluded that since the Section 138 notice was issued from and replied to Mangalore, Courts in that city possessed territorial jurisdiction.

The two-Judge Bench decision in **Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd.**[7] **(2006) 3 SCC 658** held that where the territorial jurisdiction is concerned the main factor to be considered is the place where the alleged offence was committed.

It is axiomatic that when a Court interprets any statutory provision, its opinion must apply to and be determinate in all factual and legal permutations and situations. The dictum in ***Ishar Alloy*** is very relevant and conclusive to the discussion in hand. It also justifies emphasis that ***Ishar Alloy*** is the only case which was decided by a three-Judge Bench and, therefore, was binding on all smaller Benches. It is ingeminate that it is the drawee Bank and not the Complainant's Bank which is postulated in the so- called second constituent of Section 138 of the NI Act, and it is this postulate that spurs the hon'ble court towards the conclusion and that the Apex court concluded in the Dashrath Rupsingh Rathod's Case. There is also a discussion of ***Harman*** to reiterate that the offence under Section 138 is complete only when the five factors are present. It is the offence in the contemplation of Section 138 of the NI Act is the dishonour of the cheque alone, and it is the concatenation of the five concomitants of that Section that enable the prosecution of the offence in contradistinction to the completion/commission of the offence.

Thereafter in the case of ***Harman Electronics (P) Ltd. v. National Panasonic India (P) Ltd.***[8]. The hon'ble court emphasized and declared three distinct aspects :

1. It said that there was a world of difference between issue of a notice, on the one hand, and receipt, thereof, on the other. Issue of notice did not give rise to a cause of action while receipt did, it was declared by the Court.
2. The Court held that a notice is one of the ingredients for the maintaining the complaint. It is only on receipt of the notice that the accused at his own peril may refuse to pay the amount. Clauses (b) and (c) of the proviso to Section 138 therefore must be read together. Issuance of notice would not by itself give rise to a cause of action but communication of the notice would.
3. The Court held that if presentation of the cheque or issue of notice was to constitute a good reason for vesting courts with jurisdiction to try offences under Section 138, it would lead to harassment of the drawer of the cheques thereby calling for the need to strike a balance between the rights of the parties to the transaction.

So in the back drop of the above discussion, the Jurisdictional aspect as given in ***Bhaskaran case*** was diluted and the logic behind vesting of jurisdiction based on the place from where the notice was issued questioned. Even presentation of the cheque as a reason for assumption of jurisdiction to take cognizance was doubted for a unilateral act of the complainant/payee of the cheque could without any further or supporting reason confer jurisdiction on a Court within whose territorial limits nothing except the presentation of the cheque had happened.

Three recent decisions need be mentioned at this stage which have followed ***Bhaskaran*** and attempted to reconcile the ratio of that case with the subsequent decisions in ***Ishar Alloy Steels*** and ***Harman Electronics***. In ***Nishant Aggarwal v. Kailash Kumar Sharma***[9] Apex Court was once again dealing with a case where the complaint had been filed in Court at Bhiwani in Haryana within whose territorial jurisdiction the complainant had presented the cheque for encashment, although the cheque was drawn on a bank at Gauhati in Assam. Relying upon the view taken in ***Bhaskaran*** this Court held that the Bhiwani Court had jurisdiction to deal with the matter. While saying so, the Court tried to distinguish the three-Judge Bench decision in ***Ishar Alloy Steels*** (supra) and that rendered in ***Harman Electronics*** case (supra) to hold that the ratio of those decisions did not dilute the principle stated in ***Bhaskaran*** case. That exercise was repeated by this Court in ***FIL Industries Ltd. v. Imtiyaz Ahmad Bhat***[10] ***(2014) 2 SCC 266*** and in ***Escorts Ltd. v. Rama Mukherjee***[11] ***(2014) 2 SCC 255*** which too followed ***Bhaskaran*** and held that complaint under Section 138 Negotiable Instrument Act could be instituted at any one of the five places referred to in ***Bhaskaran's*** case.

The issue of cause of action on the second or successive Dishonour of the cheque is decided in the case of ***MSR Leathers v. S. Palaniappan & Anr***[12]**. (2013) 1 SCC 177** before a bench comprising of Markandey Katju and B. Sudershan Reddy, J.J. who referred the issue to a larger bench. The larger bench in ***MSR Leathers's*** case (supra) overruled ***Sadanandan Bhadran*** (supra) holding that there was no reason why a fresh cause of action within the meaning of Section 142 (b) read with section 138 should not be deemed to have arisen to the complainant every time the cheque was presented but dishonoured and the drawer of cheque failed to pay the amount within the stipulated period in terms of proviso to 138.

Thereafter the Hon'ble Apex court decided on First of August,2014 , in the case of **Dashrath Rupsingh Rathod Versus State Of Maharashtra & Anr**[2]., Bearing criminal Appeal No. 2287 of 2009 , Hon'ble Mr. Justice T.S.Thakur held that applying the general rule recognised under Section 177 of the Cr.P.C. that all offences are local, the place where the dishonour occurs is the place for commission of the offence vesting the Court exercising territorial jurisdiction over the area with the power to try the offences. Further in cases where the offence under Section 138 is out of the offences committed in a single transaction within the meaning of Section 220 (1) of the Cr.P.C. then the

offender may be charged with and tried at one trial for every such offence and any such inquiry or trial may be conducted by any court competent to enquire into or try any of the offences as provided by Section 184 of the Code. So also, if an offence punishable under Section 138 of the Act is committed as a part of single transaction action with the offence of cheating and dishonestly inducing delivery of property then in terms of Section 182 (1) read with Sections 184 and 220 of the Cr.P.C. such offence may be tried either at the place where the inducement took place or where the cheque forming part of the same transaction was dishonoured or at the place where the property which the person cheated was dishonestly induced to deliver or at the place where the accused received such property.

Hon'ble Justice M.L.Tahaliyani in the criminal writ petition no. 2362 of 2014 at the Hogh Court of judicature at Bombay in the matter of **Mr.Ramanbhai Mathurbhai Patel Versus State of Maharashtra & Anr**.[13] On 25th of August, 2014 held that when the cheque payable at all branches of the drawee bank has been dishonoured by one of the branches of the Drawee Bank, the drawer of the cheques had given an option to the banker of payee to get the cheques cleared from the nearest available branch of bank of the drawer. It, therefore, follows that the cheques have been dishonoured within the territorial jurisdiction of Court of that Court.

Accordingly a reading of Section 138 NI Act in conjunction with Section 177, CrPC leaves no iota of doubt that the return of the cheque by the drawee bank alone constitutes the commission of the offence and indicates the place where the offence is committed. In this analysis the Hon'ble Apex Court held that the place, sites or venue of judicial inquiry and trial of the offence must logically be restricted to where the drawee bank, is located. The law should not be warped for commercial exigencies. And further emphases that Courts are not required to twist the law to give relief to incautious or impetuous persons; beyond Section 138 of the NI Act.

It was further clarify by the apex court that the place of the issuance or delivery of the statutory notice or where the Complainant chooses to present the cheque for encashment by his bank are not relevant for purposes of territorial jurisdiction of the Complaints even though non-compliance thereof will inexorably lead to the dismissal of the complaint.

In addition to this it was further clarified that the Complainant is statutorily bound to comply with Section 177 etc. of the CrPC and therefore the place or sites where the Section 138 Complaint is to be filed is not of his choosing. The territorial jurisdiction is restricted to the Court within whose local jurisdiction the offence was committed, which in the present context is where the cheque is dishonoured by the bank on which it is drawn.

An offence under Section 138 of the Negotiable Instruments Act, 1881 is committed no sooner a cheque drawn by the accused on an account being maintained by him in a bank for discharge of debt/liability is returned unpaid for insufficiency of funds or for the reason that the amount exceeds the arrangement made with the bank. The general rule stipulated under Section 177 of Cr.P.C applies to cases under Section 138 of the Negotiable Instruments Act. Prosecution in such cases can, therefore, be launched against the drawer of the cheque only before the Court within whose jurisdiction the dishonour takes place except in situations where the offence of dishonour of the cheque punishable under Section 138 is committed along with other offences in a single transaction within the meaning of Section 220(1) read with Section 184 of the Code of Criminal Procedure or is covered by the provisions of Section 182(1) read with Sections 184 and 220 thereof.

The unilateral acts of a complainant in presenting a cheque at a place of his choice or issuing a notice for payment of the dishonoured amount cannot view arm the complainant with the power to choose the place of trial. Suffice it to say, that not only on the Principles of Interpretation of Statutes but also the potential mischief which an erroneous interpretation can cause in terms of injustice and harassment to the accused the view taken in the ***Bhaskaran's*** case needs to be revisited as we have done in foregoing paragraphs.

The Latest Judgment in the case of **Dashrath Rupsingh Rathod Versus State Of Maharashtra & Anr**. will have only prospective pertinence, i.e. applicability to Complaints that may be filed after this pronouncement. However, keeping in perspective the hardship that this will continue to bear on alleged accused/respondents who may have to travel long distances in conducting their defence, and also mindful of the legal implications of proceedings being permitted to continue in a Court devoid of jurisdiction, this recourse in entirety does not commend itself to us. Consequent on considerable consideration we think it expedient to direct that only those cases where, post the summoning and appearance of the alleged Accused, the recording of evidence has commenced as envisaged in Section 145(2) of the Negotiable Instruments Act, 1881, will proceeding continue at that place. To clarify, regardless of whether evidence has been led before the Magistrate at the pre-summoning stage, either by affidavit or by oral statement, the Complaint will be maintainable only at the place where the cheque stands dishonoured. To obviate and eradicate any legal complications, the category of Complaint cases where proceedings have gone to the stage of Section 145(2) or beyond shall be deemed to have been transferred by us from the Court ordinarily possessing territorial jurisdiction, as now clarified, to the Court where it is presently pending. All other Complaints (obviously including those where the accused/respondent has not been properly served) shall be returned to the Complainant for filing in the proper Court, in consonance with our exposition of the law. If such Complaints are filed/refiled within thirty days of their return, they shall be deemed to have been filed within the time prescribed by law, unless the initial or prior filing was itself time barred.

Conclusion

In the analysis of the above statutory laws and the quoted Hon'ble apex court decisions it is crystal clear that the place, site or venue of judicial inquiry and trial of the offence u/s 138 of Negotiable Instrument Act, 1881 must logically be restricted to where the drawer bank is located and this can also be inferred from the bare reading of section 138 of N.I Act read with section 177 of Criminal Procedure Code, 1973 which leaves no iota of doubt that return of cheque by the drawee bank along constitute the commission of offence and indicates the place where the offence is committed.

While considering the territorial aspect on the same at "At Par Cheques", the Hon'ble High Court of Bombay held that the cheques issued at par provide the complainant an option to choose the place of jurisdiction. But because this decision is by the Hon'ble High Court of Bombay so it is not binding to all and that is why restricted with in the territory of the Jurisdiction of the Hon'ble High Court Of Bombay and having no binding effect on other territories though it may be consider by them. Further it is to be mentioned here that Hon'ble High Court Of Delhi on 31/01/2011 passes a judgment in the case of GVPR Engineers Limited & Ors. vs A.K.Tiwari on the territorial aspect on the "At Par Cheques" and against that order a Special Leave Petition bearing no. 4130/2011, was filed Before the Hon'ble Apex court which is still pending. So till now according to Art. 141 of the Constitution of India, the decision of Hon'ble Supreme Court in the case of Deshrath Rupsingh Rathor (Supra) is binding to all and so the jurisdiction restricted to where the drawer bank is located.

REFERENCES

1. The Negotiable Instrument Act 1881 as Amended in 2002 & 2005. | 2. Dashrath Rusingh Rathod Versus State Of Maharashtra & Anr. Cr. Appeal No. 2287/2009 Decided by Hon'ble Supreme Court Of India on 1st August 2014. | 3. K. Bhaskaran vs. Sankaran Vaidhyan Balan And Anr. (1999) 7 SCC 510 Decided on 29 September, 1999 | 4. Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd. (2001) 3 SCC 609. | 5. Prem Chand Vijay Kumar Versus Yashpal Singh (2005) 4 SCC 417 | 6. Shamshad Begum Versus B. Mohammed (2008) 13 SCC 77. | 7. Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd. (2006) 3 SCC 658. | 8. Harman Electronics (P) Ltd. v. National Panasonic India (P) Ltd. (2009) 1 SCC 720. | 9. Nishant Aggarwal v. Kailash Kumar Sharma (2013) 10 SCC 72. | 10. FIL Industries Ltd. v. Imtiyaz Ahmad Bhat (2014) 2 SCC 266. | 11. Escorts Ltd. v. Rama Mukherjee (2014) 2 SCC 255. | 12. MSR Leathers v. S. Palaniappan & Anr. (2013) 1 SCC 177. | 13. Mr.Ramanbhai Mathurbhai Patel Versus State of Maharashtra & Anr. | Cr. Writ No. 2362/2014 at High Court Of Judicature at Bombay decided on 25th of August 2014 |