

Para2.2 The firm Sidharth Exports made a loan agreement bearing No.152532177 dated 31.07.2016 with Kotak Mahindra Bank Ltd. with personal finance, Delhi, Noida. The Kotak Mahindra Bank Ltd. financed the DIGEST ON Sec. 138 N.I. ACT, 1881 Page **13** of **189** petitioner firm a sum of Rs.25,00,000/(Rupees Twenty Five Lacs) vide its letter dated 31.07.2016.

Para2.3 The petitioner firm had issued the security cheques for ECS purpose but, said cheques according to the petitioner firm, have been misused by the respondent intentionally presenting them for encashment at Ahmedabad so as to create jurisdiction within the jurisdiction of Ahmedabad.

Para14 It is quite apparent from the said provision that ordinarily, at two places, jurisdiction would lie (1) when cheque is presented for collection through an account, the branch where the payee or holder in due course, maintains the account, is situated (2) when presented otherwise through an account, the branch of bank where the drawer maintains the account. In case of the corporates, banks jurisdiction would lie with the Court having jurisdiction over the branch bank of drawer for the cheque having been presented otherwise through an account.

Para15 In the case on hand, drawer's bank is at Noida and the head quarter of Kotak Mahindra Bank is at Mumbai, it also has its branch in Noida and yet, it has chosen to tender the cheque at the branch bank at Ahmedabad.

Para16 Complainant being the Bank, it naturally would have branches almost in all parts of the country, but, what would be relevant for the purpose of deciding the aspect of jurisdiction is whether the Bank ought to have deposited the cheque at Ahmedabad and whether it had valid reason for such deposits.

Para17 This Court notices that the entire transaction is at Noida, New Delhi. The notice of dishonour of cheque also has been from Noida, New Delhi. The Head Office of the Bank is at Mumbai. Ahmedabad branch does not come into the picture at all so far as the customer is concerned. An attempt is made by the learned counsel on raising of query by the Court that the loan department is being handled at Ahmedabad. It is surprising as to how Ahmedabad would have a jurisdiction because each branch would have a loan department.

Para18.2 This Court fails to fathom this approach of secrecy on the part of the bank, which chose not to reveal this vital aspect to the petitioner also, although, relationship of the parties is governed by the terms of contract/loan agreement. It is admitted by the learned Senior counsel Mr. Pahwa when this Court raised a specific query as to whether anywhere, in any document, reference is made of loan account being maintained at Ahmedabad, that no such whisper is made. How in that case this internal arrangement of the bank would lend jurisdiction to the Court at Ahmedabad. 18.3 This is anathema to the citizen centric approach, much emphasized upon in all service rendering institutes. This also brings to the fore yet another unpalatable detail that all matters of dishonoured cheques are tried at Ahmedabad, no matter where the loan transaction is made. All customers of the bank are required to defend themselves at Ahmedabad due to maintenance of loan account at

Ahmedabad. There is no justifiable ground, except the administrative convenience of banking authority or an attempt to force compromise in cases of dishonoured cheques by maintaining the loan account at Ahmedabad for the purpose of deposit of cheques... It is one thing to maintain details of loan accounts centrally by the bank, but, it is quite different to insist on such administrative modality to be used for the purpose of ousting jurisdiction of the court, which otherwise would get or to confer jurisdiction upon the Court, when in fact it did not exist. Again, not to reveal this vital information to the loanee/customer, even while issuing the mandatory notice before initiating proceedings under [section 138](#) of the N.I. Act also need not be encouraged merely because the customer is a voiceless majority largely.

Para20 It is not revealed as to whether there has been initiation of proceedings under section 138 of the N.I. Act for some of the dishonoured cheques, other than the cheque in question.. Admittedly, it is not done at Ahmedabad. Section 142A also makes it very clear that if the prosecution is going on between the same parties, the Court proceedings shall be transferred. The remaining proceedings under section 138 of the Negotiable Instruments Act shall not cause unnecessary harassment to the parties. This Court cannot be oblivious to the decision of *Dashrath Rupsinh Rathod(supra)* where the Apex Court came down heavily upon the Banks and the financial institutions, which would file proceedings for dishonour of the cheques at different places. Being conscious of the fact that in post *Dashrath Rupsinh Rathod decision*, the amendment in 2015 has been brought on the statute, that may not take away the requirement of all the matters to be tagged together. Assuming that there is no other matter pending against the petitioner, when the entire transaction is at Noida, New Delhi, with no cause of action having arisen at Ahmedabad, for the purpose of jurisdiction the amended provisions of section 142 and 142A if are kept in view, in the opinion of this Court, Ahmedabad will have no jurisdiction with no cause of action at all having arisen here. However, on the issue of jurisdiction, the Court is of the firm opinion that the matter shall need to be filed at Noida, New Delhi.

Para23 Let the original complainant be handed over the original complaint for him to file it before the Court at Noida since the proceedings at Ahmedabad will not lie.

Siddharth Exports v. Kotak Mahindra Bank Ltd. High Court Of Gujarat R/Special Criminal Application No. 2528 Of 2019 Date : 04/09/2019