



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.816 of 2024

*Sidhartha Kumar  
Samantaray*

....

*Petitioner(s)*

*Mr. Bamadev Baral, A.N. Dash,  
B.K. Jena, G.B. Parida, Adv.*

-versus-

*Ambika Prasad Mohanty*

....

*Opposite Party(s)*

*Mr. Diptimaya Pattnaik, Adv.*

**CORAM:**

**HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI**

Order No.

06.

ORDER

27.02.2026

1. This matter is taken up through hybrid arrangement.
2. The Petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure seeking quashment of the order dated 21st February, 2024 passed by the learned 2nd Additional Sessions Judge, Bhubaneswar in CrI. Revision No.60/92 of 2023. By the said order, the learned Revisional Court set aside the order dated 21.09.2023 passed by the learned J.M.F.C. (L.R.), Bhubaneswar in 1 C.C. Case No.2686 of 2017 and directed that the complaint be returned for presentation before the Court possessing the appropriate territorial jurisdiction. The present petition thus questions the legality and propriety of the revisional order whereby



the earlier decision of the learned Magistrate to entertain the complaint was interfered with on the ground of lack of territorial jurisdiction.

3. The Petitioner, being the complainant, instituted 1C.C. Case No.2686 of 2017 before the learned J.M.F.C. (LR), Bhubaneswar under Section 138 of the Negotiable Instruments Act, 1881 (for short, "N.I. Act"), alleging commission of offence punishable under Section 420 of the I.P.C.

4. The case of the complainant, in brief, is that on 23.04.2017 the Opposite Party approached the Petitioner at Bhubaneswar and borrowed a sum of Rs.2,20,000/- as a friendly loan, assuring that the said amount would be repaid within a period of one month. However, despite repeated demands made by the Petitioner after the expiry of the stipulated period, the Opposite Party failed to discharge the liability. Eventually, in order to liquidate the outstanding dues, the Opposite Party issued an account payee cheque bearing No.046325 dated 25.05.2017 for a sum of Rs.2,20,000/- drawn on Indian Bank, Bhubaneswar Branch. The said cheque was thereafter presented by the Petitioner through his bank, namely Indian Bank, Choudwar Branch, Cuttack, on 26.05.2017. Upon presentation, the cheque was returned unpaid on the very



same day with the endorsement "Funds Insufficient", thereby giving rise to the cause of action for initiating the present proceeding. Statutory notice dated 02.06.2017 was issued under Section 138(b) of the N.I. Act, which was received by the Opposite Party on 03.06.2017. Despite receipt of the said notice, the cheque amount was not paid within the statutory period.

5. Subsequently, the Petitioner instituted a complaint before the Court of the learned S.D.J.M., Bhubaneswar alleging commission of the offence arising out of the dishonour of the aforesaid cheque. Upon taking cognizance of the matter, the case was later transferred to the Court of the learned J.M.F.C. (L.R.), Bhubaneswar for the purpose of trial and disposal in accordance with law.

6. During the course of the trial, the Petitioner-Complainant entered the witness box and was examined as well as cross-examined on 18.11.2019. Thereafter, the statement of the accused was recorded on 13.09.2022, following which the matter was posted for adducing defence evidence. The case thus had substantially progressed in the trial and had reached the stage of defence evidence.

7. At that juncture, the Opposite Party/accused filed a petition on 13.09.2020 raising an objection with regard to the territorial jurisdiction of the learned trial Court and



questioning the maintainability of the complaint in view of the provisions contained in the Negotiable Instruments Act, 1881. The objection was specifically founded on Section 142(2) of the said Act, contending that the Court at Bhubaneswar lacked the requisite territorial jurisdiction to entertain and try the complaint. On such premise, a prayer was made before the learned trial Court to adjudicate upon the said objection relating to jurisdiction and to pass appropriate orders in that regard.

8. The learned J.M.F.C. (L.R.), Bhubaneswar, upon hearing the parties and considering the materials available on record, rejected the said petition by order dated 21.09.2023. The learned trial Court, inter alia, observed that the objection relating to territorial jurisdiction had been raised at a belated stage after the trial had substantially progressed and that the matter had already advanced to a stage where the statement of the accused had been recorded. In such circumstances, the learned Court held that the plea was not maintainable and declined to entertain the same.

9. Aggrieved thereby, the Opposite Party preferred Crl. Rev. No.60/92 of 2023 before the court of learned 2<sup>nd</sup> Addl. Sessions Judge, Bhubaneswar, challenging the same.



10. The learned Revisional Court, by judgment dated 21.02.2024, allowed the revision petition and set aside the order passed by the learned trial Court. While doing so, the Revisional Court directed that the complaint be returned to the complainant for presentation before the Court having competent territorial jurisdiction at Cuttack. The Revisional Court observed that, in view of the statutory mandate contained in Section 142(2) of the Negotiable Instruments Act, 1881, the jurisdiction to entertain and try a complaint arising out of dishonour of cheque vests in the Court within whose territorial limits the bank branch of the payee, where the cheque is presented for collection, is situated. Since the cheque in the present case had been presented by the complainant in his account at Indian Bank, Choudwar Branch, Cuttack, the Revisional Court held that the Courts at Cuttack alone possessed the requisite territorial jurisdiction to adjudicate the complaint. Learned counsel for the Petitioner contends that:

- i. The cheque was issued and handed over at Bhubaneswar. Hence, Bhubaneswar Court has jurisdiction;
- ii. The plea of jurisdiction was raised belatedly and amounts to waiver and admission;



- iii. The learned Sessions Judge failed to consider the provisions under Section 115 i.e. principles of estoppel and under Section 58 of the Evidence Act i.e. facts once admitted cannot be denied;
- iv. Refiling the complaint would result in *de novo* trial causing prejudice;
- v. The Revisional Court misinterpreted Section 142(2) and Section 142A of the N.I. Act.

11. Per contra, learned counsel for the Opposite Party, while supporting the impugned judgment passed by the learned Revisional Court, contends that the question of territorial jurisdiction goes to the very root of the matter and cannot be conferred upon a Court by consent, acquiescence, waiver or estoppel of the parties. It is further submitted that the issue is squarely governed by the statutory framework contained in the amended provisions of the Negotiable Instruments Act, particularly Section 142(2) thereof, which clearly delineates the Court competent to entertain a complaint arising out of dishonour of cheque. According to the learned counsel, once the statute expressly prescribes the Court having territorial jurisdiction, the same must be strictly adhered to irrespective of the stage at which the objection is raised. On such premise, it is contended that the learned Revisional



Court has rightly interfered with the order of the learned Magistrate and directed return of the complaint for presentation before the competent Court. Accordingly, it is prayed that the present CRLMC, being devoid of merit, deserves to be dismissed.

12. Heard learned counsel for the Petitioner and learned counsel for the Opposite Party. Perused the available materials on record.

13. The principal question that arises for consideration in the present case is whether the learned Revisional Court was justified in directing return of the complaint on the ground of lack of territorial jurisdiction after the trial had substantially progressed and had reached the stage of defence evidence.

14. At the outset, it is necessary to note that the offence alleged in the present case arises under Section 138 of the Negotiable Instruments Act, 1881. The law relating to territorial jurisdiction in such matters underwent significant legislative clarification through the introduction of Section 142(2) of the Act by the 2015 amendment. The provision stipulates that where a cheque is delivered for collection through an account, the Court within whose jurisdiction the branch of the bank where the payee maintains his account is situated shall have jurisdiction to try the offence.



15. It is apt to quote the amended provision of under Section 142A of N.I. Act, which reads as under:

*“142.A Validation for transfer of pending cases-  
(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section [142](#), as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times”.*

16. In the present case, it is not in dispute that the cheque in question was presented by the complainant through his bank account at Indian Bank, Choudwar Branch, Cuttack. Prima facie, therefore, the Court at Cuttack would fall within the statutory framework contemplated under Section 142(2) of the N.I. Act. However, what assumes significance in the present case is the stage at which the objection regarding territorial jurisdiction was raised. The record reveals that the complainant had already been examined and cross-examined and the statement of the accused had also been recorded. The matter had progressed to the stage of defence evidence. Thus, the trial had substantially advanced and the evidentiary process had nearly reached completion.



17. It is a well-settled principle of procedural jurisprudence that objections relating to territorial jurisdiction, unlike objections relating to inherent lack of jurisdiction, are essentially procedural in nature and are required to be raised at the earliest possible opportunity. If such objections are permitted to be raised after the trial has substantially progressed, it would defeat the very objective of expeditious adjudication and would cause serious prejudice to the complainant who has already led evidence before the Court.
18. In the present case, the learned Magistrate took note of this aspect and held that the plea regarding territorial jurisdiction had been raised belatedly after substantial progress of the trial. The learned Magistrate was therefore justified in declining to entertain such objection at that stage of the proceeding.
19. The learned Revisional Court, however, interfered with the order of the learned Magistrate and directed return of the complaint solely on the ground that territorial jurisdiction vested in the Court at Cuttack under Section 142(2) of the N.I. Act. In doing so, the learned Revisional Court appears to have overlooked the stage of the proceedings and the prejudice that would be caused by



directing return of the complaint after the trial had almost reached its fag end.

20. It is trite that procedural provisions are intended to advance the cause of justice and not to defeat it. Where the trial has already substantially progressed and the parties have participated in the proceedings without raising timely objection, directing a fresh presentation of the complaint before another Court would inevitably result in a de novo trial, thereby causing unnecessary delay and hardship.
21. Having considered the afforested facts and submissions, this Court is of the view that the learned Magistrate had exercised his discretion judiciously in declining to entertain the belated objection regarding territorial jurisdiction. The interference made by the learned Revisional Court in such circumstances cannot be sustained.
22. Consequently, the impugned judgment dated 21.02.2024 passed by the learned 2nd Additional Sessions Judge, Bhubaneswar in Crl. Revision No.60/92 of 2023 is hereby set aside. The order dated 21.09.2023 passed by the learned J.M.F.C. (L.R.), Bhubaneswar in 1 C.C. Case No.2686 of 2017 stands restored.



23. The learned trial Court is directed to proceed with the trial of the case from the stage at which it presently stands and dispose of the same in accordance with law with due expedition.
24. The learned trial Court shall return the complaint in terms of the revisional order, if not already returned.
25. Pending application (s), if any, stand disposed of.
26. Interim order, if any, stands vacated.

*(Dr. Sanjeeb K Panigrahi)*  
*Judge*