

- (16) Medical Assistance has to be provided if the victim suffers any injuries which require treatment.
- (17) Medical support and nutrition support has to be provided if the victim becomes pregnant in any such cases. The support from the ICDS may be provided in such cases.

Apart from all these aspects the cultural values, ethical values and social tolerance have to be inculcated by parents and educational institutions while rearing, teaching and nurturing children. Adults also have to relearn their values, opinions, behaviour *etc.* Working environment for the women shall be safe, secure and women friendly. It is the role of one and all. It is the role of society. The nation can be proud if it succeeds in minimizing, preventing and eradicating the sexual offences. All religions also profess that women have to be supported and respected. The spiritual teachings always say that it is the duty of the men to protect the women.

Law is a response to social problems.—

Man is a social animal. Social environment conditions man's conduct. Changes in the society influences man's behavior. Law alone cannot change the society. Man also changes society. Apart from social environment, the inner sphere of the man also moulds his

behaviour. His thought process also changes his behaviour. His thought process is influenced by his intellect. His intellect is also influenced by his mind. Mind is an eluding abstract. Mind moves like a quick silver. It flies like a bird. It swims like a fish. It drills like a rig. Taming the mind is a challenge. Those who be friends their mind can display exemplary conduct. Those who tame their mind can also influence others. They show the path to others. They can bring change in attitude of others. India is a land where taming the mind is practiced. Industrialization, westernization, urbanization and net-spread all affected Indian life. We shall not forget our core values. We have strong value system. We have to rediscover our value system. We have to examine whether we are drifting away from our value system. We have to redefine our value system. Man has to ponder whether he is progressing. He has to consider while progressing the beast in him is surfacing. He has to consider whether he is transcending or tumbling down. If he tumbles down, it leads to bestiality. If he transcends, it leads to divinity.

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A BIRD'S EYE-VIEW OF CERTAIN DIRECTIONS LAID DOWN BY THE SUPREME COURT OF INDIA IN PARA 20, PAGES 144 AND 145 OF 2014 (2) ALD (CRL.) 190 (SC) = 2014 (3) ALT (CRL.) 129 (S.C)

By

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In the decision reported in 2014 (2) ALD (Crl.) 190 (SC) = 2014 (5) ALD 1 (SC) = 2014 (3) ALT (Crl.) 129 (S.C), the Supreme Court, after olding in Para No.19 in crystal clear terms "that 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," held in Para 20 as follows :

“20..... consequent on considerable consideration, we think it expedient to direct that only those cases where post the summons and appearance of the alleged accused, the recording of evidence has commenced as envisaged in Section 145(2) of the Negotiable Instrument Act, 1881 will proceeding continue at that place. To clearly, regardless of whether evidence has been led before the Magistrate at the pre-summoning stage, either by affidavit or oral statement, the complaint will be maintainable only at the place where the cheque stands dishonoured. To obviate and eradication 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 cases (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/refilled 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.

2. Now, my point of view is, whether classification of cases under the Negotiable Instruments Act, 1881 into three categories, to wit, (i) Pre-summoning cases whether sworn statement is recorded by affidavit or oral statement or not; (ii) all other cases where summons are not yet served upon the accused and in post-summoning cases which do not reach the stage of Section 145(2) of N.I. Act; (iii) post summoning cases, which go to the stage of Section 145(2) N.I. Act and giving directions to the effect that the first category of case that is pre-summoning cases regardless of whether evidence has been led either by affidavit or otherwise the complaints would be

maintainable only in the place where the cheque stands dishonoured thereby meaning that if they are not so filed such complaints must be dismissed; and, in the second category of cases, where summons are issued to the accused but the cases does not reach the stage of Section 145(2) of N.I. Act (and where summons are not served upon the accused) such complaints shall be returned to the complainants for presentation in proper Courts, that is, Court within the jurisdiction of which the Banks which dishonoured the impugned cheques are situated, that too within one month from the date of such return by the Court without jurisdiction and in third category of cases, that is, in post summons cases, the cases reach the stage of Section 145(2) and above of N.I. Act, such cases shall continue in the same Courts without being questioned about the legality or otherwise of the territorial jurisdiction of the Court in which the cases are pending, as the Supreme Court says that such complaints shall be deemed to have been transferred by the Supreme Court from the correct Court to the Court in which the cases are pending, is constitutional? I am of the view that the no distinction can be drawn in between 1st and 2nd categories of complaints which are already filed in Court having no jurisdiction but, which have a little difference with stage of proceeding, the former complaints, liable to be dismissed and the latter to be returned to the complainants for presentation in proper Courts, that is, in Courts, within the jurisdiction of which the Banks in which the cheque in question are dishonoured, were situated. This classification of complaints, both of which are filed in Courts without jurisdiction results in the former cases in dismissal of the complaints and in the latter cases, in legalizing the wrongful act of the complainants by way of getting return of their complaints from the Courts without jurisdiction to be filed in Courts having jurisdiction. I think it is hit under Article 14 of the Constitution of India. Justice would have been done equally to the former cases also, had they also been

directed to be returned to the complainants for presentation in proper Courts as declared by them in relation to the latter cases within one month as in the latter cases, instead of directing them to be dismissed impliedly.

3. In the third category of cases, the said decision declares the verdict of the Supreme Court that, “the complaints, filed and in progress, reaching to the stage of Section 145(2) of N.I. Act and beyond which are in Courts without jurisdiction, shall be deemed to have been originally instituted in Courts having jurisdiction, as declared in the earlier paragraphs of the said decision and shall be further deemed that they are transferred by the Supreme Court itself to the Courts where the said proceedings are in progress, and as such, such cases shall proceed further without being attacked on the ground of territorial jurisdiction. In other words, what the Supreme Court said is, certain illegal things can be legalised by Supreme Court, probably invoking its power under Article 142(1) of the Constitution of India.

4. The question as to whether the Supreme Court can pass any order irrespective of any statutory law, like, Criminal Procedure Code 1973, under the cloak of exercising its power under Article 142 of Constitution, fell for consideration by the Supreme Court in 2002 (6) ALT 55.2 (DNSC) = 2002 (7) Supreme 133 (*State of Punjab and another v. Rajesh Syal*) where three Judge Bench of Supreme Court held that, “even in exercising its jurisdiction under Article 142(1) of the Constitution of India, it is more than doubtful that an order can be passed by it contrary to law, like, directing the accused to file applications to be moved for consolidation of cases pending in different Courts for different offence to be tried in a single Court, which is not in accordance with Section 218 Proviso and Section 220 of Cr.P.C. In so holding, Supreme Court overruled two earlier decisions, holding contra.

5. Section 406 of Cr.P.C., declares the power of Supreme Court to transfer cases

and appeals “Section 406(1) whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a criminal Court sub-ordinate to one High Court to another criminal Court of equal or Superior jurisdiction sub-ordinate to another High Court.

(2) the Supreme Court may act under this section only on the application of the Attorney General of India or of a party interested and every such application shall be made by motion, which shall, except when the applicant is the Attorney General of India or Advocate General of the state be supported by affidavit or affirmation.

(3)

6. Section 407 of Cr.P.C., declares the rights of the High Court to transfer cases and appeals.

“Section 407 where it is made to appear to the High Court

(a) that a fair and impartial trial or inquiry cannot be had in any criminal Court sub-ordinate thereto; or,

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section required by any provision of this code or will tend to the general convenience of the parties, or witnesses or is expedient for the ends of justice.

It may order :

(i)

(ii)

(iii)

(iv) That any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court or on the

application of a party interested, or, on its own initiative provided that no application shall lie to the High Court for transferring a case from one criminal Court to another criminal Court in the same session division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

7. So, it is clear that the power to transfer criminal cases by the Supreme Court is governed by the provision contained in Section 406 of Cr.P.C. in the above cited decision, Supreme Court ordered for a fictional transfer of a criminal case from the file of one J.F.C.M to another, whether or not both the Courts are within the territorial jurisdiction of the same Session Judge; such a power of transfer of criminal cases from the file of one J.F.C.M to the file of another

J.F.C.M is not at all within the powers or jurisdiction of the Supreme Court even within the longest range of vision or imagination of the provisions contained in Section 406 of Cr.P.C. The earlier decision of the Supreme Court reported in 2002 (6) ALT 55.2 (DNSC) consisting a Bench of three Judge, as in the above decision, clearly held that the Supreme Court can not pass any order contrary to law, even exercising its power under Article 142(1) of Constitution of India. So, according to my understanding the decision of the Supreme Court reported in 2014 (3) ALT (CrL) 129 (S.C) must be held to be *sub-silentio* and hence not laying the law, on sound principles and accordance with law, so far as the directions given by it in Para 20 at Pages 144 and 145 in the said decision are concerned and require review.

THE CHANGING ROLE OF BANKING SECTOR IN INDIA - THE IMPACT OF GLOBALISATION AND TECHNOLOGY

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Introduction

In olden days banks worked as depositories of money. They were institutions where a person went to deposit his money so that he can go and withdraw it when he needed. This was the basic idea with which the concept of banking germinated. In India, banking as an institution originated in late 18th century. Post-independence, the nationalisation of major banks came as an important milestone in Indian Banking System. The economic liberalisation in the early 1990s ushered in an era of privatisation wherein many new banks - the 'new generation tech - savvy banks' were launched. A few foreign banks commenced their

operations in India as well. Today, we have a reasonably well developed banking system. We are witnessing an amalgamation of nationalised banks, public sector banks, private banks, foreign banks, regional rural banks and co-operative banks with the Reserve Bank at the top to guide and direct them. All these banks employ latest emerging technology, are competitive in wooing customers and winning them over by providing professional services.

The implementation of new technology has made the banking sector undergo a transformation. It has been modernised to make maximum profits at minimal costs and streamlined to ensure increased accessibility