

SUPREME COURT OF INDIA

Jagdish Chand Gupta

Vs.

Sandeep Arora

(S V Manohar and G Pattanaik JJ.)

04.09.1998

ORDER

1. Leave granted.

2. In the present case the cheque was dishonoured on 2-7-1996. Under Clause (b) of the proviso to Section 138 of the Negotiable Instruments Act, after the dishonour of the cheque, the payee or the holder is required to make a demand for payment by giving notice in writing to the drawer of the cheque on the return of the cheque as unpaid. In the present case, it is apparent from Annexure P-4 that a notice dated 16-7-1996 was given by the appellant to the respondent which was within the time prescribed under Clause (b) of the proviso to Section 138 of the Negotiable Instruments Act. The reply of 23-7-1996 given by the respondent makes this position apparent. Under Clause (c) of the proviso to Section 138, 15 days time is given to the respondent for making payment after receipt of notice. No such payment was made within 15 days even if we assume that 23-7-1996 was the date on which the respondent has received the notice. Section 142(b) of the Negotiable Instruments Act, provides that complaint should be made within one month from the date on which the cause of action arises under Clause (c) of the proviso to Section 138.

3. In the present case, the complaint was filed on 12-8-1996 which is well within the period prescribed after the accrual of the cause of action under Clause (c) of the proviso to Section 138. The High Court was not right in quashing the complaint on the ground of limitation. The impugned

order of the High Court is therefore, set aside. The appeal is allowed.