

SUPREME COURT OF INDIA

N.A. Issac

Vs.

Jeemon P. Abraham

SL.P.(Crl.)No.2955 of 2003

(Y. K. Sabharwal and D. M. Dharmadhikari JJ.)

13.08.2004

JUDGMENT

Y. K. Sabharwal, J.

1. Leave granted.
2. The interpretation of the High Court of Section 138 of Negotiable Instruments Act, 1881 to the effect that the said provision will not be applicable when the cheque is issued from an already closed account cannot be upheld on the wordings of Section 138. The word 'maintained' in Section 138 of the said Act has been narrowly construed by the High Court for coming to the aforesaid conclusion. Such an interpretation would defeat the object of insertion of the provision in Act. Section 138 does not call for such a narrow construction. The approach to be kept in view for construing Section 138, has been discussed in detail by this Court in *Goaplast (P) Ltd. Vs. Chico Ursula D'Souza*]. The High Court did not examine the merits while deciding Criminal Appeal No. 317 of 2002 in view of its opinion that Section 138 would not apply where cheque is issued from a closed bank account.
3. For the aforesaid reasons, we set aside the impugned judgment of the High Court and remit the aforesaid Criminal Appeal for its fresh decision, on merits, in accordance with law. We express no opinion on merits. All the pleas would be open to be urged before the High Court. The High Court is requested to decide the Criminal Appeal expeditiously.
4. The appeal is allowed accordingly.