

DISHONOUR OF CHEQUES - LAW AND PRACTICE. By Rajesh Gupta and Gunjan Gupta. Delhi : Bharat Law House Publication, 1996. Pp. 40 + 440, Rs. 300/-.

Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 inserting Chapter XVII comprising of Sections 138 to 142 in the Negotiable Instruments Act, 1881 represents a hallmark in the development of the law on the problem of dishonouring of cheques. Prior to coming into force of this amendment, the problem of dishonour of cheques had gained gigantic proportions crippling the trade and commerce. The remedies then available were inadequate and ineffective, and far away from being purposeful and deterrent.

Recent developments in the law relating to the dishonour of cheques exhibit that now a person aggrieved of the dishonouring of cheques has two more remedies besides the traditional remedies. Traditional remedies were the offence of cheating under Section 420 of the Indian Penal Code, 1860; ordinary civil suits and summary procedure as envisaged under Order XXXVII of the Code of Civil Procedure, 1908. New remedies were injected by way of institution of Chapter XVII to the Negotiable Instruments Act, 1881 in the year 1988 and enactment of Consumer Protection Act, 1986.

Although Consumer Protection Act, 1986 had come into operation offering a speedy trial of the cases relating to dishonour of cheques, the menace remained unchecked largely due to the fact that firstly, these laws are remedial and secondly, for the reason of their limited jurisdiction they can entertain cases of dishonouring of cheques only against the bankers and not otherwise. However, in contrast to this, the remedy offered by the Amendment Act, 1988 to the Negotiable Instruments Act is comparatively purposeful and deterrent though it does not break out the slow motion justice system which is lethargic enough as it takes sometimes 3-4 years in just summoning the accused for presuming evidence.

The corpus of the law dealing with the problem of dishonour of cheques consists of heterogeneous and overlapping legal rules enshrined in different statutes of civil and criminal nature. Judicial pronouncements in this area as given in last 4-5 years also contributed a lot in shaping this new regime and it is for this reason that a comprehensive analysis is required.

The work under review is a unique and most comprehensive endeavour to present at one place the entire gamut of statutes and precedents with model forms of complaints and notices on the subject. It contains micro case law

analysis having a wide coverage of laws, statute as well as precedent, touching almost all conceivable topics even commenting on such topics on which no precedent is available.

The book under review is arranged into six parts. Part I contains overview of the subject which is descriptive enough to enable the reader to have an all round idea of the subject. Part II presents a comprehensive critical study relating to Section 138 of the Negotiable Instruments Act, 1881. Part III provides a study on the summary procedure as envisaged under Order XXXVII of the Code of Civil Procedure, 1908. Part IV discusses the relevance of cheating as defined under the Indian Penal Code, 1860. Part V introduces for the first time a nexus of law relating to consumer protection in India and the law relating to dishonouring of cheques. This innovative idea of introduction of law relating to consumer protection in the study relating to dishonour of cheques perhaps is because of the present authors' specialisation on the law relating to consumer protection in India as they have written two texts on that subject as well. Part VI contains model forms of notices and pleadings to make it self contained treatise.

The book and its chief characteristic is not only analytical but simple exposition of the alternate remedies available to a person aggrieved of dishonour of cheques. The work constitutes the widest possible expanse of the subject covering all its aspects from different angles with their specialities under one roof - a kind of light house on any kind of question relating to dishonour of cheques. The work presents a blend of 'precedent in theory' and 'precedent in practice' juxtaposing the difference of opinion of various judicial authorities maintaining at the same time the originality of the text of their judgements.

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