

**Order below Exh.1 in STC 331/2014**

**( Passed on 25-08-2016)**

1. The complainant's Counsel present before the Court when called out. The present complaint filed U/sec.138 of Negotiable Instrument Act. It is received in transfer from **Daund Court** as per order dated **12/11/2014**. The cheque is delivered for collection through an account branch of the complainant i.e. **Pune D.C.C. Bank Branch Madhukarnagar,-Patas Tal. Daund Dist. Pune.**

2. Negotiable Instrument Act, 1981 was amended as per Negotiable Instruments (Amendment) Act, 2015. As per Section 142(2) “The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction.”

2(a) - of the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated, or

2(b) - of the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

3. As per newly added Section 142(A) – Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases arising out of section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Act, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of section 142 as if that sub-section had been in force at all material times.

4. This case is received in transfer from **Daund Court** to this Court as per the direction issued by Hon'ble Supreme Court, in case of **Dasharath Rupsingh Rathod (2014(9) Scale 97)**. *As per recent pronouncement of Hon'ble Apex Court in case of **Bridgestone India Private Limited VS. Indrapal Singh, reported in AIR 2015 SCW 6556**, it is held that, "... the word... as if that sub-section had been enforced at all material times..." used with reference to Section 142(2), in Section 142-A(1) given retrospective of the provision. Hence, amended act is having retrospective effect of the original Act of the Negotiable Instrument Act, 1881.* In view of above case law & as per the amended law, this court is not having jurisdiction to try and entertain this case. In such circumstances, it is necessary to return this case to the complainant to file it before the concerned court having jurisdiction U/sec.142(2) of the Amended Act. In view of the amended Act, I pass the following order.

**O R D E R**

1. The complaint along-with all documents be returned to the complainant for presentation in court having Jurisdiction vide Amended Section 142(2) of the Negotiable Instrument Act,2015.
2. The complainant shall provide photo copies of the complaint and the documents annexed with the list and shall acknowledged the receipt of the same.

Date :-25/08/2016.

**(V.I. Bhandari)**  
Judicial Magistrate First Class,  
Pathardi