

ORDER BELOW EXH.-1

The present complaint has been filed for offence u/Section 138 of the Negotiable Instruments Act, 1881 due to the return of cheque drawn on bank which is not situated within the jurisdiction of this Court. Recently the **Hon'ble Supreme Court of India** has, in the case of **Dashrath Rupsingh Rathod V/s. State of Maharashtra, being the Criminal Appeal No.2287 of 2009** decided on 01-08-2014 reported in 2014 STPL(Web) 499, laid down the ratio that the territorial jurisdiction for institution of the complaint u/S. 138 of the Negotiable Instrument Act is restricted to the Court within whose local jurisdiction, where the cheque is dishonoured by the bank on which it is drawn. Thus, in the present case also, applying the ratio as laid down by the Hon'ble Supreme Court of India that this Court will have no territorial jurisdiction but the Court in whose jurisdiction the bank on which the alleged accused has drawn the cheque situated/falls, that Court will have territorial jurisdiction. On perusal of the present case the evidence u/s. 145(2) of the

Negotiable Instrument Act, 1881, has not been commenced. And this Court do not have territorial jurisdiction. Therefore, the present complaint is required to be returned to the complainant for its presentation before the competent Court having jurisdiction as per guidelines of **Hon'ble Supreme Court of India** in the case of ***Dashrath Rupsingh Rathod V/s. State of Maharashtra, being the Criminal Appeal No.2287 of 2009*** decided on 01-08-2014 and within limitation period as prescribed therein. Hence, in the interest of justice I pass the order as under.

ORDER

As per guidelines of **Hon'ble Supreme Court of India** in the case of ***Dashrath Rupsingh Rathod V/s. State of Maharashtra, being the Criminal Appeal No.2287 of 2009*** decided on 01-08-2014, the present complaint, alongwith all the original documents produced with the complaint, if any, ordered to be returned to the complainant, for filing the same before the proper Court having territorial jurisdiction, after

keeping the certified copy/true copy of the complaint and documents with record & proceedings of the present case as per Rules, as this Court lacks the territorial jurisdiction.

Signed, pronounced and declared in the open Court today on 6th day of December, 2014 at Rajkot.

Date : 06-12-2014

{ M.M. Shaikh }

Place: Rajkot

5th Additional Chief Judicial Magistrate

Rajkot

UIC- GJ 00607