

Criminal Case No. 3010/2009 ORDER BELOW EX.1

Today when matter is repeatedly called out, Advocate for the complainant is present, the matter is pending from long time for service of summons to the accused/evidence of complainant. The present complaint has been filed for the return of cheque drawn on bank which is not located within the jurisdiction of this court. Recently the Hon'ble supreme court in the case of **Dashrath Rupsingh Rathod V/s. State of maharashtra** has laid down the ratio that the territorial jurisdiction for institution complainant u/s.138 of the Negotiable Instrument Act is restricted to the court within whose local jurisdiction the cheque is dishonoured by the bank on which it is drawn. For pending complaints the Hon'ble Supreme Court laid down that except the cases in which post the summoning & appearance of the accused, the recording of evidence has commenced as envisaged in section 145 of the Negotiable Instrument Act, 1881, all other complaints to be returned for filing in the proper court. On perusal of the present case the recording of evidence u/s.145(2) of the Negotiable Instrument Act, 1881, has not commenced. Therefore, this court do not have territorial jurisdiction. Hence, I pass following order.

ORDER

The present complaint alongwith all the original documents produced with the complaint, if any, ordered u/s. 201(a) of code of Criminal Procedure, 1973 to be returned to the complainant for filing in the proper court, as this court lacks the territorial jurisdiction. The present case accordingly disposed off.

The zerox true copy of the complaint & original documents to be kept with record & proceedings of the present case.

Parties to bear their own costs.

Date:- 14/11/ 2014

Place:- Rajkot

Sd/-
(Hiren Gopalbhai Mali)
2nd Addl. Judi. Magi. First Class
Rajkot.
(UNIC No. GJ 01173)