

CC/19375/2009

ORDER

IN THE CIVIL COURT AT RAJKOT

CRIMINAL CASE NO. 19375 OF 2009.

CC/19375/2009

Complainant :

1. H. D. F. C. BANK

VERSUS

Accused :

1. HARISHSINH SHIVUBHA

Appearance:

No Advocate For Complainant

No Advocate For Accused

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 plea / service of summons / warrant to the accused. 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 of 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(2) 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.

:: O R D E R ::

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

The complainant is required to follow procedure as provided in Chapter 21, Para 367(1) of Criminal Manual r/w Para 474 of the Civil Manual for return of the complaint and documents (if any) as per above order and shall produced certified copies of documents as required under the rules.

Signed and pronounced in the open court today **28th** day of **November** 2014 at Rajkot.

Date : 28/11/2014
Rajkot

(**Hardik Dilipbhai Rajpura**)
7th Addl.J.M.F.C.,
R A J K O T
UIC NO. GJ01291