

CC/10014/2008

Order below Ex.1

As per the judgement in case of **Dashrath Rupsingh Rathod Versus State of Maharashtra & Anr**, the Complaint which is filed under Section 138 of the NI Act shall be returned if following condition is satisfied ;

- (i) Accused has not properly served.
- (ii) Evidence has been led before the Magistrate at the pre- summoning stage, either by affidavit or by oral statement.
- (iii) The complaint has not been filed where the cheque is dishonoured by the bank on which it is drawn

On persual of record of the case, it appears that neither accused has been properly served nor complaint has been filed where the cheque is dishonoured by the bank. Therefore keeping view of the Hon'ble Apex court as above judgement I pass following order

// ORDER //

As per law laid down by the Hon'ble Apex Court in case of **"Dashrath Rupsingh Rathod Versus State of Maharashtra & Anr,"** the present complaint (with original documents, if any) is hereby ordered to be returned to the complainant for filing the same before the court having territorial jurisdiction.

The certified copy of the complaint and original documents (if any) be kept with the record and proceedings of the present court.

Date: 06/12/2014
Rajkot

(R.A.Nagori)
2nd Add. Chief. Judi. Magi., Rajkot
(GJ00578)