

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CRIMINAL WRIT PETITION NO. 175 OF 2015

BHIMRAO RAMCHANDRA JADHAV
VERSUS
THE STATE OF MAHARASHTRA & ANR

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Advocate for Petitioners : Mr. Kakde Yuvraj V.
APP for Respondent No.1: Mr. U. H. Bhogle.
Advocate for Respondent No.2: Mr. S. R. Andhale.

CORAM: T. V. NALWADE, J.
DATED: 30th JUNE, 2015.

PER COURT:

1. The petition is filed to challenge the order made by learned J.M.F.C. on Exhibit-26 in S.T.C. No.35 of 2014. The case is pending in the Court of learned J.M.F.C. Shevgaon, District Ahmednagar and it is filed for offence punishable under section 138 of Negotiable Instruments Act by Respondent.
2. The application on Exhibit-26 was filed by present petitioner for returning the complaint for filing it in appropriate Court and it was contended that the cheque

was issued by the accused was of the Branch situated at Pandharpur. The complainant wanted to place reliance on the case of “***Dashrath Rupsingh Rathod V/s State of Maharashtra & Anr.***” [***Criminal Appeal No.2287 of 2009***].

3. The learned J.M.F.C. observed that the matter had already reached the stage of evidence and so even on the basis of the ratio of Dashrath Rupsingh Rathod's case it is not possible to make such order. In the case, cited supra, the Apex Court has given direction to keep the matters in which the recording of evidence is started in the same Court and only those matters in which hearing had not started are to be instituted in the Courts having local jurisdiction as per the interpretation done by Honourable Supreme Court in Dashrath Rupsingh Rathod's case. Learned counsel for the accused submitted that the affidavit in evidence was filed by the complainant on 22nd August, 2014 after the decision in Dharath Rupchand Rathod's case and so this circumstance cannot be considered. There is no force in this contention as it was a summons case triable summarily and after appearance of the accused the

Court is expected to record the plea. Only after recording of the plea the stage of giving evidence by the complainant comes. In view of this circumstance such observations are made by the learned J.M.F.C.

4. Recently the Ministry of Law and Judiciary, Legislative Department, has issued Ordinance dated 15th June, 2015 which is amendment to section 142 of Negotiable Instruments Act. By way of this amendment also the proceeding which is already pending is protected. Thus, there is no possibility of interference in the order made by learned J.M.F.C. The petition stands dismissed.

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[T. V. NALAWADE, J.]

Dt.30/06/2015
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