

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 1135 OF 2015

SBI Global Factors Limited ... Petitioner.
(previously known as Global Trade Finance
Limited)

V/s.

The State of Maharashtra ... Respondent.

Mr. Yashpal Thakur i/by PKA Advocates for the Petitioner.
Mr. V. B. Konde-Deshmukh, APP for the State.

CORAM : M.L.TAHALIYANI,J.
DATE : 24th MARCH, 2015

P.C. :

1 Admit. Heard finally.

2 Heard learned Advocate for the Petitioner and the
learned additional public prosecutor.

3 The petitioner was a complainant in criminal
complaint no. 142/SS/2011 filed under section 138 r/w.
Section 141 of the Negotiable Instruments Act. The complaint
was returned to the petitioner by the court of learned
Metropolitan Magistrate, 58th Court, Bandra, Mumbai, in view
of the judgment of the Hon'ble Supreme Court in the case of
Dashrath Rupsingh Rathod vs. State of Maharashtra and

another in Criminal Appeal No.2287 of 2009 dated 01.08.2014, as the court of Metropolitan Magistrate, Bandra, Mumbai, did not have territorial jurisdiction to try the said complaint case. It was returned to the petitioner for being presented before the appropriate court. The appropriate court in the matter was the court of Metropolitan Magistrate, Mazgaon at Sewree, Mumbai.

4 The order was passed by the Metropolitan Magistrate, Bandra on 23rd of January, 2015, directing the return of the complaint to the petitioner. The complaint was physically handed over to the petitioner on 24th February, 2015. It was presented before the Metropolitan Magistrate, 70th Court, Mazgaon at Sewree, Mumbai on 2nd March, 2015. The learned Metropolitan Magistrate, Mazgaon has refused to entertain the complaint on the ground that it was not presented before him within 30 days of the return of the complaint. The judgment of the Hon'ble Supreme Court directs that on such return of complaint, it shall be presented before the appropriate court of Magistrate within 30 days from the date of return of the complaint. The learned Metropolitan Magistrate at Mazgaon took the view that the complaint should have been filed within 30 days from 23rd January, 2015, the date on which the order was passed by the court of Metropolitan Magistrate, Bandra, Mumbai. The learned Metropolitan Magistrate, Mazgaon at Sewree, Mumbai, failed

to realize that the complaint could not have been presented before him unless it was physically returned to the petitioner. The learned Metropolitan Magistrate, Mazgaon has, however, refused to recognize the endorsement of the staff of the court of the Metropolitan Magistrate, Bandra. It is really shocking to note that the Metropolitan Magistrate, Mazgaon wants to get such a ministerial work to be done by the Judicial Officer. In my opinion, the order passed by the Metropolitan Magistrate, Mazgaon, needs to be set aside.

5 The writ petition is allowed. The order passed below Exh. 1 in Criminal Case No. 366/Misc/2015 (old C.C. No. 142/SS/2011) is set aside.

6 The learned Metropolitan Magistrate is directed to entertain the complaint and decide the same in accordance with law.

7 The writ petition stands disposed of.

(JUDGE)

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