

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

CRI. WRIT PETITION NO. 2545 OF 2015

M/s. Nivedita Mercantile and Financing Ltd. ... Petitioner.

V/s.

The State of Maharashtra & Others. ... Respondents.

WITH

CRI. WRIT PETITION NO. 2557 OF 2015

M/s. Nivedita Mercantile and Financing Ltd. ... Petitioner.

V/s.

The State of Maharashtra & Others. ... Respondents.

Mr. Yashpal Thakur i/by PKA Advocates for the Petitioner.

Mr. Ajay S. Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 17th JULY, 2015

P.C. :

1 Admit. Heard finally.

2 These two writ petitions impugn the orders passed by the learned Metropolitan Magistrate, 33rd Court at Ballard Pier, Mumbai in C.C. No. 830/SS/2015 and C.C. No. 831/SS/2015. These two cases were originally pending in the court of Metropolitan Magistrate, Court Room No.44 at Andheri. They

were returned to the petitioner/the complainant for being presented before the court, having territorial jurisdiction to decide the cases. Both the cases were, therefore, brought to the court of Metropolitan Magistrate, 33rd Court at Ballard Pier, Mumbai. One application each in both the cases was made by the petitioner for issuing notice to the respondents/original accused. The learned Magistrate instead of issuing notice to secure attendance of the accused, directed that the complaint would be treated as fresh complaint and that verification statement (statement of the complainant on oath) would be recorded. The learned Advocate appearing for the petitioner submitted that this is not the correct view and that the complaint has to be taken up for further hearing from the stage where it was left in the earlier court.

3 The respondents/accused have not appeared before this court though served.

4 In my opinion, the orders passed by the learned Magistrate, 33rd Court at Ballard Pier, Mumbai are wrong inasmuch as the Metropolitan Magistrate, 44th Court at Andheri was also competent to try the said cases but for the territorial jurisdiction in view of the judgment of the Hon'ble Supreme Court in the case of **Dashrath Rupsingh Rathod vs. State of Maharashtra**. Therefore, the part of the proceedings which took place before the Metropolitan Magistrate, 44th Court at

Andheri could not be said to be bad in law. The complaint was to be heard from the stage where it was left in the court of Metropolitan Magistrate, 44th Court at Andheri.

5 The orders passed by the learned Magistrate 33rd Court at Ballard Pier, Mumbai in both the complaint cases viz. C.C. No. 830/SS/ 2015 and C.C. No. 831/SS/2015 dated 12th May, 2015 are set aside. The Metropolitan Magistrate is directed to hear the complaints in view of what has been stated by this court hereinabove.

6 As far as amendment to the Negotiable Instruments Act by Ordinance No. 6 of 2015 is concerned, the Magistrate has to follow the amended provisions, if the cases are required to be sent back to the Andheri Court.

7 Both the writ petitions stand disposed of in the above terms.

(JUDGE)

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