

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**CRIMINAL APPLICATION (APPP) NO. 81 OF 2015**

**IN**

**CRIMINAL APPLICATION NO. 2932 OF 2005 (D)**

*(Ahuja s/o Nandkishore Dongre Vs. The State of Maharashtra & another)*

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Shri A. V. Muley, Advocate for the applicant.  
Shri A. K. Bangadkar, A.P.P. for respondent No.1.  
Shri S. U. Nemade, Advocate for respondent No.2.

**CORAM : S. B. SHUKRE, J.**

**DATED : 18<sup>th</sup> FEBRUARY, 2015**

1. Heard.
2. By this application, the applicant is seeking issuance of direction to the trial Court for complying with judgment and order dated 04/9/2006 passed in Criminal Application No. 2932 of 2005 (*Ahuja s/o Nandkishore Dongre Vs. State of Maharashtra & another*) in view of judgment of the Hon'ble Apex Court in the case of Dashrath Rupsingh Rathod Vs. State of Maharashtra and another reported in 2014 (6) Mh. L. J.-404.
3. This application has been filed after the application filed by the applicant before the trial Court for passing of appropriate orders was disposed of by the trial Court on 17/01/2015. In the application filed before the

trial Court, the applicant pointed out the observations of the Hon'ble Apex Court in Criminal Appeal No. 2287 of 2009 (*Dashrath Rupsingh Rathod Vs. State of Maharashtra and another*), wherein the Hon'ble Apex Court has dealt with the problem of applying the law laid down by it in the said case to the cases which are pending under Section 138 of the Negotiable Instruments Act. These directions indicate that selective approach while dealing with the objection as to territorial jurisdiction to try the complaint filed under Section 138 N.I. Act is to be adopted by the Court. One of the directions is that in only those cases where post summoning of the accused recording of evidence has commenced as envisaged in Section 145(2) of the N. I. Act, will the proceedings continue at that place. After reproducing the relevant observations in the application, the applicant prayed for issuance of appropriate orders. The prayer made by the applicant reads as under.:

*“It is, therefore, prayed that appropriate orders as per the judgment delivered by the Hon'ble High Court be passed.”*

4. The learned Magistrate accordingly on 17/01/2015 passed the appropriate orders in the

following terms.:

*“Perused the application and say. The application is not clear as to whatever want to relief of accused. The complaint is about 10 years old and directed to tried speedily. Hence this application is filed.”*

5. It is clear from the above order that in the opinion of the learned Magistrate, the applicant had not made his mind clear as regards the particular relief sought by the applicant from the learned Magistrate and, therefore, the learned Magistrate disposed of the application by passing the above referred order.

6. In the present application also, the applicant has not made it clear as to what kind of relief the applicant is seeking from the Court. If a selective approach as directed by the Hon'ble Apex Court is to be adopted in such a matter, it is necessary to bring on record the relevant facts of the case so that the stage at which the proceeding under Section 138 N.I. Act was pending can be ascertained by the trial Court. In the absence of relevant facts being brought on record, I do not think that any different order as passed by the learned Magistrate could have been passed in this case.

Therefore, I find no reason for this Court to make any interference with the order passed by the learned Magistrate. However, it is made clear that the question of compliance with the directions of the Hon'ble Apex Court by the trial Court is still kept open and if the applicant brings to the notice of the trial Court the relevant facts, the trial Court shall decide the issue by ascertaining the stage of the proceeding on the relevant date. In this view of the matter, the application is disposed of.

**JUDGE**