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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: March 25, 2015

+ **CRL.M.C. 412/2015 & CrI.M.A.1615/2015**

PRASHANT PAUL Petitioner
Through: Mr. Shuvodeep Roy, Advocate

versus

M/S C.G.FOODS (NEPAL) PVT LTD Respondent
Through: Mr. Alok Kumar, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In proceedings under Section 138 of *the Negotiable Instruments Act, 1881*, vide impugned order of 29th November, 2014 while relying upon Apex Court's decision in *Dashrath Rupsingh Rathod v. State of Maharashtra* (2014) 9 SCC 129 trial court has put up the complaint for cross-examination of complainant by observing that the complaint case in question has reached the stage of Section 145 (2) of *the Negotiable Instruments Act, 1881*.

At the hearing, learned counsel for petitioner had submitted that the cross-examination of the complainant has not yet started. It is submitted that in view of the dictum of the Apex Court in *Dashrath Rupsingh (supra)*, the complaint in question has to be transferred to the court of competent territorial jurisdiction. Whereas, it is maintained by learned

counsel for respondent that the cross-examination of respondent-complainant had started on 28th February, 2013 and so, the complaint case in question ought to be tried by the Delhi courts.

Upon hearing and on perusal of the impugned order and Apex Court's decision in *Dashrath Rupsingh (supra)* as reiterated in *Shivgiri Associates v. Metso Mineral (India) Pvt. Ltd.* (2014) 12 SCC 366 and the decision rendered by this Court in CRL.M.C. 700/2012 in *Neerav J. Shah & Anr. v. State & Anr.* rendered on 23rd March, 2015, I find that the complaints under Section 138 of *the Negotiable Instruments Act, 1881* in which the cross-examination of complainant after allowing of application under Section 145 (2) of *the Negotiable Instruments Act, 1881* has not started, are to be returned back for re-filing them before the court of competent territorial jurisdiction within 30 days of the said return of the complaints.

It is apparent from the impugned order of 29th November, 2014 that the cross-examination of respondent-complainant is yet not started. Thus, in view of decision rendered in CRL.M.C. 700/2012, *Neerav J. Shah (supra)*, the impugned order is hereby quashed and trial court is directed to return respondent's complaint for re-filing it within 30 days before the court of competent territorial jurisdiction.

This petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MARCH 25, 2015

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