

I-15&16

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

Date of Decision: April 16, 2015

(i) + **CRL.M.C. 3705/2014 & Crl.M.A.Nos.12973/2014 & 19671/2014**

BHAVYA INDUCTOSTEEL PVT LTD & ORS. Petitioners
Through: Mr. Ashish Aggarwal,
& Ms. Aastha Sharma, Advocates

versus

SHYAM SULPHUR LTD. Respondent
Through: Mr. Vishal Bansal, Advocate

(ii)+ **CRL.M.C. 3716/2014 & Crl.M.A. Nos.18235/2014 & 12837/2014**

BHAVYA INDUCTOSTEEL PVT LTD & ORS. Petitioners
Through: Mr. Ashish Aggarwal,
& Ms. Aastha Sharma, Advocates

versus

SHYAM SULPHUR LTD Respondent
Through: Mr. Vishal Bansal, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In the above captioned two petitions, question of territorial jurisdiction is raised in proceedings under Section 138 of *The Negotiable*

Instruments Act, 1881. Vide impugned order of 14th August, 2014, trial court has dismissed petitioner's application for return of respondent's complaint filed in view of the recent decision of Apex Court in *Dashrath Rupsingh Rathod v. State of Maharashtra* (2014) 9 SCC 129.

With the consent of learned counsel for both the sides, these petitions were heard together and are being disposed of by this common judgment.

At the hearing, learned counsel for petitioner assailed the impugned order in the above captioned two petitions by drawing the attention of this Court to the trial court's order of 30th July, 2014 vide which Notice under Section 251 of the Cr.P.C. was framed against the petitioners. Reliance was placed upon decision of this Court in *Neeraj V. Shah & anr. Vs. State & anr.* 2015 LawSuit (Del) 1544 to submit that where the cross-examination of respondent-complainant has not taken place, such complaints have been returned.

The above captioned petitions are opposed by learned counsel for respondent who had supported the impugned order to submit that since the case is fixed by the trial court for recording of complainant's evidence, therefore, stage for filing application under Section 145 (2) of the *Negotiable Instruments Act, 1881* has reached and in view of dictum of the Apex Court in *Dashrath Rupsingh Rathod (Supra)*, the proceedings arising out of complaint case in question ought to continue in Delhi.

Upon hearing and on perusal of the impugned order, the material on record and the Apex Court's decision in *Dashrath Rupsingh Rathod (Supra)* and *Neeraj V. Shah (Supra)*, this Court finds that since petitioner's application under Section 145 (2) of the *Negotiable*

Instruments Act, 1881 was not allowed till 4th August, 2014 and the decision of the Apex Court in *Dashrath Rupsingh Rathod (Supra)* was rendered on 1st August, 2014, therefore, the complaints in question are required to be returned for presentation before the court of competent jurisdiction.

In view of the aforesaid, impugned order of 14th August, 2014 is quashed and it is directed that the complaints in question be returned for re-filing within a period of four weeks from the date of return before the court of competent territorial jurisdiction.

The above captioned two petitions and applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

APRIL 16, 2015
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