

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 472 OF 2015

Bharat Veljibhai Galaiya

.....Petitioner

V/s.

Devendra Purohit and another

....Respondents

Mr. Rajesh Singh Advocate for Petitioner.

Mr. A. R. Patil APP for the State.

CORAM : RAVINDRA V. GHUGE, J.

DATED : JULY 8, 2016.

PC :

1) The Petitioner is before this Court challenging the order dated 20/09/2014 and 06/01/2015 passed by the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, thereby returning the original file to the Petitioner in Case No. 3225/SS/2013 so as to enable the Petitioner to present the case before the concerned Court in whose jurisdiction the drawee bank is located.

2) The learned counsel for the Petitioner submits that the impugned order has been passed in the light of the view taken by the Hon'ble Supreme Court in the case of **Dashrath Rupsingh Rathod V/s The State of Maharashtra and another** decided on 01/08/2014.

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- 3) He further submits that by an amendment inserted by Act No. 26 of 2015 Section 142 (A) has been introduced. Considering section 142 (A) (1) & (2) r/w section 142 (2), his complaint would be maintainable before the same learned Metropolitan Magistrate, 48th Court, Andheri, Mumbai.
- 4) In the light of the above, he prays for leave to withdraw this petition with liberty to again present the case before the same Court.
- 5) The learned APP appearing on behalf of the Respondent submits that in the light of the amendment, an appropriate order be passed.
- 6) I find that sub Section 2 to Section 42 and Section 142 (A) have been introduced by way of an amendment by Act No. 26 of 2015. As such, the offence under Section 138 would be inquired into and tried only by the Court, within whose local jurisdiction, the cheque is delivered for collection or the cheque is presented for payment. Sub Section 2 to Section 142 (A) therefore enables the aggrieved party to file a complaint against the drawer of the cheque, in a court having jurisdiction under Section 142 (2).
- 7) Considering the above, the Petitioner is permitted to withdraw this petition with liberty as prayed for.
- 8) This writ petition is therefore disposed as having been withdrawn on

instructions with liberty as above.

9) The time spent by the Petitioner in this Court from 04/02/2015 till the passing of this order, shall be considered as a good ground for condonation of delay, provided that the Petitioner applies to the same court for registering the complaint, which he has still not taken back from the said Court, within the period of 3 weeks from today.

(RAVINDRA V. GHUGE, J.)