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

+ CRL.M.C. 5631/2014 & Crl.M.A. No.19261/2014

M/S B L KASHYAP & SONS LTD Petitioner
Through Mr.Amrit Grewal, Adv.

versus

M/S UNICORP INFOTECH PVT LTD & ORS Respondents
Through Mr.Mayank Rustagi, Adv.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

ORDER
% **25.02.2016**

Learned counsel for the petitioner has submitted that while passing the order dated 4th September, 2014, the Court below passed the following order:-

“Ld. Counsel for the complainant has submitted that the decision of Hon'ble Supreme Court **in case titled as Dashrath Rupsingh Rathod Vs. State of Maharashtra Crl. Appeal no. 2287 of 2009**, is not applicable in the present case as the cheque(s) in question are payable at par.

I have heard Ld. Counsel for the complainant. The decision of the Hon'ble Supreme Court in case titled as Dashrath Rupsingh Rathod Vs. State of Maharashtra

Crl. Appeal no. 2287 of 2009, does not make any distinction between the cheques “ Payable at par” and the cheques falling under any other category. It is applicable across board. Even otherwise if contention of Ld. Counsel for the complainant is accepted then the judgment of Hon'ble Supreme Court shall become redundant as now almost all the bankers are having centerlised core banking and issuing multi city at par cheques and such distinction shall again give choice to the complainant to manipulate the jurisdiction which Hon'ble Supreme Court in the above decision has intended to curb.

In the present case the cheque(s) has/have been drawn upon a bank located outside the territorial jurisdiction of this court. Further, the present complaint has not yet reached the stage of section 145(2) NI Act or beyond. Hence, in view of the decision of the **Hon'ble Supreme Court in case titled as Dashrath Rupsingh Rathod Vs. State of Maharashtra Crl. Appeal no. 2287 of 2009**, this court lacks territorial jurisdiction over the present matter.

Ahlmad is accordingly directed to return the present complaint to the complainant/counsel for the complainant alongwith the affidavit by way of evidence and other documents required by him after the self attested photocopies or certified copies of the same are placed on record by the complainant and proper receiving

of each document is taken separately.

Further attention of the complainant/ his counsel is drawn towards following paragraphs of the decision of the Hon'ble Supreme Court referred above.

“All the other complainant (obviously including those where the accused / respondent has not been properly served) shall be returned to the complainant for filing in the proper court, in consonance with our exposition of the law. If such complaints are filed / refiled within thirty days of their return, they shall be deemed to have filed within the time prescribed by law, unless the initial or prior filing was itself time barred.”

Surety bonds and bail bonds, if any, stands discharged. Documents of surety, if any, be returned. Endorsement, if any, stands cancelled.

After compliance with the above directions, File be consigned to record room.

Copy of the order be given dasti.”

Learned counsel for the petitioner has submitted that in view of the amended Act, the jurisdiction vests in the Court below which returned the plaint. Learned counsel for the petitioner has further submitted that his purpose would be satisfied if he is permitted to move before the Court below which returned the plaint.

Accordingly, the present petition and application are disposed of with liberty as prayed for.

P.S.TEJI, J

FEBRUARY 25, 2016

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