

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

CRIMINAL WRIT PETITION NO. 1283 OF 2016

Vinayak Gangadhar Raut

Age: 35 years, Occu.: Agriculture & Business,

R/o Dudhgaon, Tq. Jintur,

Dist. Parbhani.

..PETITIONER

VERSUS

1. Suresh Shetba Kamble

Age: 54 years, Occu.: Service,

R/o c/o Lasina Irrigation Sub-Division,

Purna, Tq. Purna, Dist. Parbhani.

2. State of Maharashtra.

..RESPONDENTS

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Mr. G.R. Syed, Advocate for petitioner.

Mr. K.D. Mundhe, A.P.P. for Respondent No.2 - State.

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CORAM : T.V. NALAWADE, J.

DATED : 09th JANUARY, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned Counsel for petitioner. Some hearing was given to learned A.P.P. There is no question of giving hearing to the accused, as accused had not filed appearance in the matter and orders were made by Judicial Magistrate First Class before issuance of process.

2. It appears that present petitioner – original complainant had filed complaint in the Court of Judicial Magistrate, First Class, Jintur for the offence punishable under Section 138 of the Negotiable Instruments Act. Amendment to Section 142 of the Negotiable Instruments Act came in force and some new provisions like Section 142(A) was introduced in this special enactment. Due to this amendment, the complaint is tenable in the Court which has jurisdiction over the bank where payee has account and also over the branch of the bank in which the payee has account.

3. Initially, the complaint was filed in Judicial Magistrate, First Class, Jintur as branch of the bank of payee is situated in Jintur tahsil. Then the complaint came to be transferred to the Judicial Magistrate, First Class, Nanded in view of ratio of case reported as **2014 (2) Bankman 53 (SC) (Dashrath Rupsingh Rathod Vs. State of Maharashtra)**. After that case, the aforesaid amendment came in force. Judicial Magistrate, First Class, Nanded returned the complaint to petitioner for filing it in the appropriate Court. The Judicial Magistrate, First Class, Jintur has not accepted the complaint by holding that in view of provisions of Section 142(A), the complaint ought to have been transferred to the Nanded Court. Thus, due to the aforesaid circumstances, the complainant is made to run from one Court to another.

4. It can be said that the complaint ought to have been transferred by Nanded Court to Jintur Court in view of the amendment made in the Act. The Judicial Magistrate, First Class, Jintur returned back the complaint. The Court having jurisdiction needs to accept the complaint. This Court holds that, the order made by Judicial Magistrate First Class, Jintur needs to be set aside.

5. In the result, petition is allowed. Order made by Judicial Magistrate First Class, Jintur is hereby set aside. The Judicial Magistrate, First Class, Jintur to accept the complaint in view of the changed position of law. Rule is made absolute in those terms.

(T.V. NALAWADE, J.)

SSD