



CNR: KAHC010026452024

NC: 2026:KHC:53284
CRL.P No. 506 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 506 OF 2024

BETWEEN:

SRI CHETHAN N
S/O SRI NARAYANASWAMY,
AGED ABOUT 33 YEARS,
R/AT NO 157,
SAMPIGENAGARA,
ELECTRONIC CITY,
BANGALORE SOUTH,
BANGALORE-560 100

...PETITIONER

(BY SRI. PRAVEEN S, ADVOCATE)

AND:

SRI GOPAL JADWANI
S/O SRI MATHURADAS JADWANI,
AGED ABOUT 58 YEARS,
R/AT NO.2, FLAT NO.102,
1ST FLOOR, SAIR ELITE APARTMENT,
EDWARD ROAD, QUEENS ROAD,
BENGALURU-560001
REP. BY ITS POWER OF ATTORNEY,
HOLDER MR. HARISH B.C.

...RESPONDENT

(RESPONDENT SERVED-UNREPRESENTED)



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THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO QUASH THE FURTHER PROCEEDINGS IN SO FAR AGAINST THE PETITIONER IN C.C.NO.4476/2019 IN PCR.NO.1788/2018 FOR THE OFFENCE P/U/S 138 AND 142 OF N.I ACT PENDING ON THE FILE OF THE HONBLE 15TH A.C.M.M BENGALURU.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C seeking to quash proceedings against the petitioner - accused No.4 in CC No.4476/2019 (arising out PCR No.1788/2018) for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short, 'the NI Act'), presently pending on the file of XV Additional Chief Metropolitan Magistrate, Bengaluru (for short, 'learned Magistrate').

2. The brief facts of the case are that respondent No.2 lodged a private complaint under Section 200 of the Cr.P.C. against the petitioner and others for the offence punishable under Section 138 of the N.I. Act. It is alleged that the petitioner is a partner of the firm, namely, M/s. Spectro Alloys



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and Pigments, which had issued two cheques in favour of respondent No.2, each for a sum of Rs.1,50,000/-, dated 22.09.2018 and 22.10.2018, towards repayment of the hand loan allegedly availed by the firm from respondent No.2.

3. The learned Magistrate took cognizance of the offence and issued summons to the accused and others. Aggrieved by the same, the petitioner has preferred this petition seeking quashing of the proceedings against him.

4. Heard the learned counsel for petitioner. Though the notice was served to the respondent, he remained unrepresented.

5. The primary contention advanced by the learned counsel for the petitioner is that the petitioner was not in any manner connected with the day-to-day affairs of the aforesaid firm and was not its managing partner during the relevant period. It is contended that, as per the supplemental partnership deed regarding admission of new partners dated 05.08.2017, the petitioner had retired from the firm and was replaced by another partner. Therefore, it is contended that the



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petitioner had no knowledge of or connection with the affairs of the firm during the relevant period.

6. It is further contended that the petitioner is not a signatory to the cheques in question and, therefore, cannot be vicariously held liable for the acts of the principal offender i.e. the firm. Accordingly, learned counsel prays to allow the petition.

7. I have given my anxious consideration to the submission made by the learned counsel for the petitioner so also perused the entire materials available on record.

8. As could be gathered from records, the cheques in question were issued in the name of M/s. Spectro Alloys and Pigments and were signed by its authorised signatory, namely, Mrs. Sapna Agarwal i.e. accused No.3. The only allegation against the petitioner is that he was also a managing partner of the said firm. However, the supplementary partnership deed produced by the petitioner discloses that he had retired from the partnership and was replaced by another partner.



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9. Further, there is no specific averment in the complaint that the petitioner was in charge of or responsible for the day-to-day affairs of the firm at the relevant point of time. In this regard, the Hon'ble Apex Court, in ***S.M.S. PHARMACEUTICALS LTD. V. NEETA BHALLA AND ANOTHER***, reported in ***(2005) 8 SCC 89***, has held that, for fastening criminal liability under Section 138 of the N.I. Act, the person sought to be made liable must be in charge of and responsible for the conduct of the business of the company at the time of commission of the offence. Every person connected with the company does not fall within the ambit of the said provision and only those persons who were in charge of and responsible for the conduct of its business at the relevant time can be proceeded against.

10. Applying the aforesaid principle to the facts of the present case, since the petitioner had already retired from the partnership prior to the commission of the alleged offence and there is no specific averment or material to show that he was in charge of or responsible for the conduct of the business of the firm at the relevant time, continuation of the proceedings



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against petitioner would amount to an abuse of the process of the Court. Accordingly, I proceed to pass the following:

ORDER

- i. The petition is ***allowed.***
- ii. The proceedings against the petitioner - accused No.4 in CC No.4476/2019 (arising out PCR No.1788/2018) for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, pending on the file of XV Additional Chief Metropolitan Magistrate, Bengaluru is hereby quashed.

**SD/-
(RAJESH RAI K)
JUDGE**

CR
List No.: 1 Sl No.: 13