



CNR: KAHC010155862024

NC: 2026:KHC:51595
CRL.P No. 2525 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 2525 OF 2024

BETWEEN:

LAKSHMI NARAYANA POULTARY FARM (FIRM)
SURVEY NO.169/2, THOUDUR POST
DAVANAGERE RURAL-583125
DAVANAGERE DISTRICT
PROPREITOR
MADHUSUDHAN L
S/O LAKSHMI NARAYANA
D NO.1737/1, 3RD MAIN,
2ND 'A' CROSS, VINOBA NAGARA,
DAVANAGERE-577 006

...PETITIONER

(BY SRI. S.G RAJENDRA REDDY, ADVOCATE)

AND:

VINAYAKA P ARADHYAMATH
S/O PANCHAKSHARAI AH ARADHYAMATH
R/AT BEHIND MANOHAR CAFE
HALLADAKERI, SHIMOGA ROAD
HARIHARA CITY-577601
DAVANAGERE DISTRICT

...RESPONDENT

(BY SRI. NAGABHUSHANA H.K, ADVOCATE-ABSENT)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO ALLOW THIS CRIMINAL PETITION AND QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.2663/2022 PENDING ON THE FILE OF THE I ADDITIONAL CIVIL JUDGE AND JMFC HARIHARA FOR THE OFFENCE P/US/.138 OF NI ACT.

THIS PETITION, COMING ON FOR ORDERS, 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 in CC No.2663/2022 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short, 'the NI Act'), presently pending on the file of I Additional Civil Judge and JMFC, Harihara (for short, 'the Trial Court').

2. Brief facts of the case are that, the respondent filed a private complaint against the petitioner before the Trial Court under Section 200 of the Cr.P.C for the offence punishable under Section 138 of the N.I. Act. It is alleged that the petitioner-accused had borrowed a hand loan of Rs.6,00,000/-



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from the respondent-complainant in November 2021, agreeing to repay the same within eight months. Towards repayment of the said amount, the petitioner issued a post-dated cheque dated 28.07.2022. On presentation, the said cheque came to be dishonoured and was returned with the endorsement "payment stopped by the drawer". Consequently, the respondent lodged the aforesaid private complaint against the petitioner. The Trial Court, thereafter, took cognizance of the offence and issued summons to the petitioner. Aggrieved by the said order, the accused-petitioner has preferred this petition.

3. Heard the learned counsel for the petitioner. Learned counsel for the respondent remained absent.

4. The primary contention of the learned counsel for the petitioner is that the petitioner is a partner of Lakshmi Narayana Poultry Farm, a firm situated in Davanagere District. It is contended that, without arraigning the principal offender, i.e. the aforesaid firm, as an accused, the complainant has arrayed the petitioner alone as an accused. Hence, in view of the settled position of law laid down by the Hon'ble Apex Court



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as well as this Court in a catena of judgments, the complaint cannot be proceeded against the petitioner in the absence of the firm being arraigned as an accused. Accordingly, he prays to allow the petition.

5. I have given my anxious consideration to the submission made by the learned counsel for the petitioner and perused the entire the materials on record.

6. On perusal of the documents produced by the petitioner, it is evident that the aforesaid Lakshmi Narayana Poultry Farm (Firm) was registered with the Registrar of Firms, Davanagere, and the Certificate of Registration of Firm was issued vide Firm No.DVG-F92-2018-19 dated 17.10.2018. The partnership deed further discloses that the petitioner is one of the partners of the said firm. Moreover, the cheque in question indicates that the petitioner has signed the same in his capacity as a partner of the said firm. In such circumstances, in the absence of the firm being arraigned as an accused, the petitioner, being a partner, cannot be vicariously prosecuted as the sole accused.



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7. In such circumstances, the Hon'ble Apex Court, in ***ANEETA HADA V. GODFATHER TRAVELS AND TOURS PRIVATE LIMITED***, reported in ***(2012) 5 SCC 661***, and subsequently in ***HIMANSHU V. B. SHIVAMURTHY AND ANOTHER***, reported in ***(2019) 3 SCC 797***, has held that, in the absence of the principal offender being arraigned as an accused, a person sought to be made vicariously liable cannot be proceeded against for the acts attributable to the principal offender.

8. Applying the aforesaid principles to the facts of the present case, the petitioner, being a partner of the firm, cannot be proceeded against for the alleged offence in the absence of the firm itself being arraigned as an accused. Therefore, continuation of the proceedings against the petitioner-accused would not be sustainable in law. Accordingly, I proceed to pass the following:

ORDER

- i. The petition is ***allowed***.
- ii. The proceedings against the petitioner/accused in CC No.2663/2022 for the offence punishable under Section 138



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of Negotiable Instruments Act, 1881,
presently pending on the file of I
Additional Civil Judge and JMFC, Harihara
is hereby quashed.

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 Sl No.: 10