



NC: 2026:KHC:29734
CRL.P No. 8084 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 8084 OF 2021

BETWEEN:

DILIP KUMAR
S/O SHANMUGAM,
AGED ABOUT 40 YEARS,
DIRECTOR,
SHANMUGAM MODERN RICE MILLS,
DESHIHALLI, KGF ROAD,
BANGARPET - 563 114.

...PETITIONER

(BY SMT. RAKSHITHA P. SINGH, ADVOCATE FOR
SRI S BALAKRISHNAN, ADVOCATE)

AND:

PRASANNA KUMAR
SRI. LATE. M S RAJANNA,
AGED ABOUT 46 YEARS,
R/O. NO. 202, 6TH MAIN,
APMC YARD, YESHWANTHPUR,
BANGALORE - 560 022.

...RESPONDENT

(BY SRI DHIRAJ A.K., ADVOCATE)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE
ORDER OF COGNIZANCE DATED 09.01.2019 AND ALL FURTHER
PROCEEDINGS IN C.C.NO.1197/2019 (P.C.R.NO.674/2019) FOR
OFFENCE P/U/S.138 OF NI ACT PENDING BEFORE THE XII
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 09.01.2019 and all further proceedings in CC no.1197/2019, arising out of PCR no. 674 of 2019, on file of XII ACMM Bangalore, for offence punishable under Section 138 of Negotiable Instruments Act (**NI Act**), this petition is filed.

2. Smt.Rakshitha P Singh, learned counsel appearing for Sri S Balakrishnan, counsel for petitioner submitted that petitioner was arraigned as accused no.3 in private complaint filed by respondent alleging offence punishable under Section 138 of NI Act. It was submitted that on 09.01.2019, learned Magistrate took cognizance of offence and ordered summons but without applying his mind as said order would meet requirements of law. It was submitted that petitioner was not signatory to cheque, dishonour of which led to private complaint in question. Besides, there was no assertion in complaint that petitioner was in charge of affairs of company and was responsible and issued cheque.



3. Relying upon decision of Hon'ble Supreme Court in case of ***Hitesh Verma v. M/s. Health Care at Home India Pvt. Ltd. & Ors.*** reported in ***(2025) 7 SCC 623***, it was submitted that Hon'ble Supreme Court had held in case of proceedings under Section 138 of NI Act against directors of a company, proceedings would not sustain unless both requirements stipulated in Section 141 of NI Act were satisfied. It was submitted that only a director who is in charge of company was responsible for conduct of business of company could be prosecuted for offence. In instant case, assertion that accused no.2-Managing Director had borrowed money with concurrence of accused no.3 who was a director of company, would not satisfy said requirement and sought for allowing petition.

4. Sri Dheeraj AK, learned counsel for respondent-complainant appearing through Video Conference opposed petition. It was submitted that complaint mentioned clear assertion that accused no.3 was a director of Company and that borrowal by accused no.2 for company was with concurrence of accused no.3 would indicate concurrence for borrowing money



i.e., business of company was required and obtained. Same would satisfy requirements. Insofar as order dated 09.01.2019, it was submitted that learned Magistrate had on perusal of material recorded satisfaction for proceeding against accused for offence punishable under Section 138 of NI Act and sought for dismissal.

5. Heard learned counsel and perused impugned order as well as material on record.

6. This petition is by accused no.3 challenging order taking cognizance of offence punishable under Section 138 of NI Act and for quashing of entire proceedings. Perusal of order dated 09.01.2019 reveals recording of sufficiency of grounds to proceed. Same would meet requirements of law.

7. Challenge against proceedings is based on assertion that accused no.3 was not a signatory to cheque and was not responsible for conduct of business of company and there was no specific assertion by complainant that accused no.3 was in fact in charge of business/affairs of company. Hon'ble Supreme Court in **Hitesh Verma's** case (supra) on interpretation of Section 141 of NI Act has laid down requirement of assertion in



legal notice or in complaint about director being responsible for conduct of business of Company.

8. Therefore, not only on ground that accused no.3 was not a signatory to cheque in question, but also on ground that there is no specific assertion that he was in charge of affairs of company, following ratio laid down in **Hitesh Verma's** case (supra), petition is **allowed**, proceedings in CC no.1197/2019, arising out of PCR no. 674 of 2019, on file of XII ACMM Bangalore, insofar as accused no.3 stands *quashed*.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 39