

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 890 OF 2015**

Mansi Suraj Choksi

....Petitioner.

Vs.

M/s. Buoyant Financial Advisor Pvt. Ltd.

Through its Authorized Representative & Anr.

....Respondents.

Adv. H.H. Nagi I/by Chawla Solanki Nagi & Associates for the
Petitioner.

Mr. Dinesh Dubey for the Respondent No.1.

Mr. Prashant Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 20th AUGUST, 2018.

P.C.:-

By the present Petition, under Article 227 of the Constitution of India, the Petitioner has challenged the Order dated 9th June, 2014 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai in C.C. No.1683/SS/2014 thereby, issuing process against the Petitioner and other accused persons under Section 138 read with Section 141 of the Negotiable Instruments Act and the Judgment and Order dated 15th January 2015, passed in Criminal Revision Application No. 945 of 2014 by the Additional Sessions Judge, Greater Bombay thereby, dismissing the Revision Application preferred by the Petitioner.

2 Heard the learned counsel appearing for the Petitioner, the learned counsel for the Respondent No.1 and the learned APP. Perused the record.

3 The learned counsel for the Petitioner submitted that, the Complaint as filed by the Respondent No.1 suffers with a various lacunae and the glaring defect in the Complaint is that, no specific role has been attributed to the Petitioner pointing out her criminal liability in the offence. He further submitted that, merely because the Petitioner is a Director in the Accused No.1-Company namely M/s. Hemvijay Holdings Private Limited, she cannot be prosecuted for vicarious liability in issuance of negotiable instruments in question. In support of his contention, the learned counsel for the Petitioner relied upon the decision of the Hon'ble the Supreme Court in the case of *Pooja Ravinder Devidasani Vs. State of Maharashtra*, reported in 2015 *ALL MR (Cri.) 419 (S.C.)*. He further submitted that, the Respondent No.1 is well aware of the fact that the Petitioner herein is a housewife and as and by way of arm twisting method, she has been impleaded as an accused, just to bring the accused persons across the table for settlement. He therefore, prayed that, the present Petition be allowed and the Order of issuance of process may be quashed and set aside.

4 A bare perusal of the Complaint and in particular paragraph Nos. 2, 4, 5 and 12 of the said Complaint, would make it apparently clear that specific and categorical role has been attributed to the Petitioner herein. It is categorically averred that, the Petitioner along with other accused persons are the Directors of the accused No.1 company and the accused No.2 therein, has been appointed as an authorized signatory to issue the cheques in question. The Complaint would *prima facie* indicate that, more than the role of an Director has been assigned to the Petitioner herein and it is categorically averred that the Petitioner was participating in day to day activity and affairs of the said company.

5 Perusal of the Order of issuing process dated 9th June, 2014 and Order dated 15th January, 2015 dismissing Revision Application passed by the Additional Sessions Judge, Greater Mumbai in Revision Application would make it apparently clear that, the same has been passed after taking into consideration the relevant aspects of the matter and I find that there is no error either in law or in facts in the impugned orders.

6 Petition is accordingly rejected.

S S
Mashalkar

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(A.S. GADKARI, J.)