

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3192 OF 2019

Smt.Nupur Naveen Saxena

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr.Yatin N. Shah a/w. Mr.Rajesh X.Machado i/b. Mr.Shivaji Krishna Farakate for the Petitioner.

Mrs.Rutuja Ambekar, APP for Respondent No.1-State.

Mr.Marwadi a/w. Mr.Kartik Garg and Ms. Amruta Sawant i/b. Sonal Doshi & Co. for Respondent No.2.

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CORAM : S. S. SHINDE, J
DATE : 23 September 2019

P.C.

1. This petition takes an exception to the order dated 04.05.2019 passed by learned Additional Sessions Judge, City Civil & Sessions Court, Gr. Bombay thereby confirming the order dated 25.01.2017 passed by learned Metropolitan Magistrate, 7th Court, Dadar.

2. The learned Counsel appearing for the petitioner submits that the petitioner has not signed the subject cheque. He further submits that the petitioner is a sleeping partner and not getting any remuneration. He further submits that since the petitioner has not received any
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remuneration and accused Nos. 3 and 4 are the in-charge of the partnership firm, and the cheque is signed by accused Nos. 3 and 4, the petitioner is not responsible for encashment of such cheque.

3. On the other hand, the learned Counsel appearing for respondent No.2 invites attention of this Court to the Amended Partnership Deed and in particular paragraph 16 thereof, and submits that it is specifically stated that no partner without the consent of the other can do day to day affairs on behalf of the partnership firm. Therefore, learned Counsel argues that the petitioner is a working partner and also receiving remuneration, and also there are averments in the complaint that the petitioner is responsible for day to day affairs of the said partnership firm and, therefore, the learned Magistrate has rightly issued the process. In support of contentions, the learned Counsel pressed into service exposition of law of the Supreme Court in the case of Gunmala Sales Private Ltd. Vs. Anu Mehta reported in (2015) 1SCC 103 and in particular conclusion reached by the Supreme Court in paragraph No. 33 of the said judgment.

4. Heard learned Counsel appearing for the parties. I have perused the copy of the Amended Partnership Deed wherein it is specifically stated that the petitioner and other persons are working partners and

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also in paragraph No. 6 of the said Partnership Deed, it is mentioned that the petitioner is receiving monthly remuneration of Rs. 50,000/-. Apart from paragraph No.3 of the complaint filed by the complainant i.e., respondent No.2, it is specifically stated that accused No.1 is a partnership firm engaged as dealers of electronic goods, televisions, computers, computer parts and other consumer goods. Accused Nos. 2 to 4 are the working partners of accused No.1 firm and they are responsible for the day to day affairs and conduct of its business.

5. It appears that the learned Magistrate has applied his mind to the facts of the case and issued process. The order of issuance of process has been confirmed by the learned Additional Sessions Judge, City Civil & Sessions Court, Gr. Bombay. On an independent scrutiny of the documents placed on record, this Court is of the opinion that the order of issuance of process passed by the learned Magistrate needs no interference. Hence, the petition stands rejected.

[S. S. SHINDE , J]