

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO.760 OF 2021
IN
COMPANY PETITION NO.488 OF 2015

Yusuf Karim KhanApplicant

In the matter between :

Puspaben C. Jhaveri (HUF)Petitioner

V/s.

Elder Pharmaceuticals LimitedRespondent

Mr. Ashok Kumar Mishra a/w. Ms. Madhuri Amare-Machado i/b. Solicis Lex for applicant.

Mr. Mahendhar Aithe, Company Prosecutor present.

CORAM : K.R.SHRIRAM, J.

DATED : 6th APRIL 2021

P.C. :

1 Mr. Aithe states that even they have not been served a copy of the application though it has been lodged on 16th February 2021. I have, however, considered the application and the reliefs sought in the application.

2 Applicant used to work as Executive Professional Director of the company (in liquidation). It appears that there are many complaints filed against the company and its Directors/Promoters/persons in-charge under the provisions of Section 138 read with Section 141 of the Negotiable Instruments Act, 1881. Applicant is also arrayed as co-accused in those cases, a list whereof applicant has provided in paragraph 13 of the application. According to applicant, applicant is not liable and therefore, is

seeking to add applicant as respondent to the company petition and also to call for the records and proceedings of the cheque bounce cases against applicant and quash all those cheque bounce cases against applicant.

3 This is not the forum which can quash the proceedings under Section 138 of the Negotiable Instruments Act, 1881. Applicant may take such defence as he deems fit in the Magistrates' Court where the cases are pending or take out such proceedings in the appropriate forum for quashing of those proceedings as he may be advised.

4 In view thereof, the question of adding applicant as respondent to the petition also does not arise.

5 Interim application accordingly stands dismissed.

(K.R. SHRIRAM, J.)