

11.05.2022

Item No.23
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 144 of 2015

**Umesh Parekh
versus
State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

The present revisional application was preferred challenging the proceedings relating to Case No. C/409287 of 2014 under Sections 138/141 of the Negotiable Instruments Act pending before learned Chief Metropolitan Magistrate, Calcutta. The further challenge was in respect of the order dated 28.08.2014 passed in connection with the said proceedings.

I find that the learned Magistrate by his order dated 28.08.2014 was pleased to take cognizance of the offence and on an appreciation of the affidavit filed under Section 145 of the Negotiable Instruments Act was pleased to issue process against the accused person. The main contention of the petitioner is that he is a non-Executive Director of the Company and as such, he cannot be made responsible for the day to day conduct of the business of the Company and he is also not a signatory to the cheque.

Having regard to the contention advanced in this revisional application, I am of the opinion that the same is a question of fact which cannot be decided summarily by invoking the provisions under Section 482 of the Code of

Criminal Procedure. The allegation made in paragraph 2 of the petition of complaint establishes the requirements under Section 138 of the Negotiable Instruments Act for vicarious liability of persons responsible in-charge of the Company. Having regard to the same, I am of the opinion that the petitioner has failed to make out any case for interference by this Court.

Accordingly, the revisional application being CRR 144 of 2015 is dismissed.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)