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

**CRIMINAL APPLICATION NO.1168 OF 2022  
WITH  
CRIMINAL APPLICATION NO.1171 OF 2022**

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Shamal Vijay Parab & Anr. ... Applicants  
**V/s.**  
The State of Maharashtra & Anr. ... Respondents

Mr. Neeraj Yadav for the applicants.

Mr. A.D. Kamkhedkar, APP for the respondent  
no.1/State.

**CORAM : AMIT BORKAR, J.**

**DATED : DECEMBER 2, 2022**

**PC.:**

**1.** The applicants are challenging order dated 11<sup>th</sup> August 2022 of issuance of process in a complaint under section 138 of the Negotiable Instruments Act, 1881 (hereafter “NI Act”, for short). Learned advocate for the applicants invited my attention to the demand notice issued by the complainant, wherein the complainant stated that at all given point of time it is accused no.2 who interacted with the complainant. Therefore, according to the applicants this shows that it is only accused no.2 who was in-charge and responsible for day-to-day affairs of the accused no.1. He placed reliance on the judgment of the Apex Court in **S.P Mani and Mohan Dairy v. Dr. Snehalatha Elangovan** reported in 2022 SCC OnLine SC 1238.

2. Having carefully considered the submissions made on behalf of the applicants, in my opinion, the so-called admission by the complainant is not sufficient to exonerate the applicants at the stage of issuance of process. It is very well possible that accused no.2 might have dealt with the complainant's matter but other partners might have dealing with other clients. Merely because in relation to a particular transaction a partner deals with the complainant, that would not absolve other partners if they are found to be in-charge and responsible for day-to-day affairs of the firm.

3. If it is the case of the applicants that he is not in-charge of the day-to-day affairs of the accused no.1, it is for him to produce the documents of sterling and incontrovertible nature or acceptable circumstance to support his contention.

4. As is held in **S.P. Mani and Mohan Dairy** (supra), the complainant is supposed to know only generally as to who were the in-charge of the affairs of the company or firm, as the case may be. It is only the partners of the firm who have special knowledge about the role they had played in the firm at the relevant time.

5. Considering paragraph 19 of the complaint, at this stage it is sufficient to attract vicarious liability under section 141 of the NI Act. In that view of the matter, the order of issuance of process cannot be termed as perverse. There is no miscarriage of justice.

6. Both the criminal applications are dismissed. No costs.

**(AMIT BORKAR, J.)**