



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

Cr1.O.P.No.12752 of 2020

Ruchika Agarwal

...Petitioner/Accused 8

.Vs.

Shrivari Industries,
Represented through its Proprietor Mr.C.Sugesh,
Karupparayanpalayam,
Mylampatti (Post),
Coimbatore - 62.

...Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C praying to call for the records in C.C.No.72 of 2019 pending on the file of the Fast Track Court No.I, Magistrate Court, Coimbatore and quash the same.

For Petitioner	:	Ms.Deepika Murali
For Respondent	:	Mr.Venkatesh Kumar

ORDER

The short point involved in this petition for quash is that the petitioner herein who is arrayed as 8th accused in the private complaint registered by the respondent herein under Sections 138 and 142 of Negotiable Instruments Act claims that she is neither a Director of the accused company nor was at realm of affairs at the alleged date of issuance of cheque. Thereafter, she could not be held liable for criminal prosecution under Section 138 of Negotiable Instruments Act. To buttress the statement, the learned counsel for the petitioner has furnished Form No.DIR- 11 document was issued by the Registrar of the companies, wherein it is indicated that Ruchika Agarwal, the petitioner herein is the Director of Cview Innovations Pvt. Ltd., who was appointed on 07.10.2015 has resigned from her directorship on 03.09.2016, due to personal and unavoidable circumstances. While so, the cheques which are the subject matter of the criminal prosecution in C.C.No.72 of 2019 pending on the file of the Fast Track Court No.I, Magistrate Court, Coimbatore, pertains to the order dated 31.08.2018 and 31.10. 2018 nearly two years after the petitioner herein resigned from the directorship of the accused company



namely Cview Innovations Pvt. Ltd.,.

2. The learned counsel for the respondent/complainant filed counter, wherein it is stated that this petitioner is the wife of the main accused Ashish Agarwal and she participated in the business negotiations through out and at one point of time, she agreed to discharge the debt to the tune of Rs.45,00,000/- and thus she actively participated in the entire affairs of the company, therefore jointly and severally liable for dis-honour of cheques drawn in the name of the accused company.

3. On reading of provisions of the Negotiable Instruments Act particularly Sections 138 and 142, wherein it is stated that the erstwhile Directors of the company retired or resigned could not be held liable for cheque which was apparently issued after retirement/resignation of the Directorship and if the cheque was not issued by the drawer to maintain his account or he is not a signatory of the cheque. The ingredients of the Sections 138, 139 and 142 of Negotiable Act will not attract.

4. Considering the fact that the petition for quash is allowed. The private complaint as against this petitioner alone is quashed. Since, the case is pending before the trial Court for more than three years, the trial Court is directed to expedite the trial and complete the same within a reasonable time.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Pbl/vv

To:

The Judicial Magistrate,
The Fast Track Court No.1,
Magistrate Court,
Coimbatore.

+1cc to Mr.Arjunraj, Advocate, S.R.No.28044

Cr1.OP.No.12752 of 2020

MG(CO)
RN(11/05/2022)