

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

**CRIMINAL WRIT PETITION NO.6452 OF 2021**

Saurabh Baroi

...Petitioner

Versus

The State of Maharashtra & Anr

...Respondents

-----  
Ms. Sumi Soman a/w Digajmaan Mishra & Rita Yadav, i/b  
Yashmaan Mishra a/w Mangesh Bhende, Hema Kala & S. Yadav for  
Hammurabi & Solomon, Advocate for Petitioner.

Mr. Arfan Sait, APP for State/Respondent.

Ms. Bijal Gogri, i/b GNP Legal, Advocate for Respondent No.2.  
-----

**CORAM : SARANG V. KOTWAL, J.  
DATE : 6<sup>th</sup> OCTOBER 2023**

**PC :**

1. The Petitioner is the original Accused No.8 before the  
Additional Chief Metropolitan Magistrate 6<sup>th</sup> Court, Sewree  
(Mazgaon), Mumbai in Summons Case No. SS/602150/2021.

2. The allegations in the complaint are in respect of  
dishonour of cheque dated 21<sup>st</sup> May 2021 drawn on HDFC Bank,  
Lucknow, Uttar Pradesh for the amount of Rs.1,45,70,283/-. In  
the compliant it was the case of the Complainant who is the  
Respondent No.2 herein that, the Accused Nos.2 to 8 were

directors and were responsible for day to day affairs of the conduct and management of business of the Accused No.1 company i.e., Margdarshak Financial Services Ltd. The learned Magistrate took cognizance and issued summons to the Accused including the present Petitioner. The case of the Petitioner is that he was only a nominee director and he had resigned on 11<sup>th</sup> May 2021 i.e., before issuance of cheque. He was not a director when the financial agreement was entered into.

3. I have heard learned Counsel for the Respondent No.2 who is the original Complainant. She has tendered an affidavit on behalf of the Respondent No.2. It is taken on record. It is mentioned in the affidavit that the Respondent No.2 shall not prosecute against the Petitioner / original Accused No.8, as he was appointed as a nominee director with the Accused No.1 company in connection with the said Summons Case No.602150/2021. It is specifically mentioned in the affidavit that the Respondent No.2 shall have no objection if the Petitioner i.e., the Accused No.8 is discharged from the said Summons Case No.602150/2021. In paragraph 4 of the affidavit, it is further mentioned that the

Criminal Writ Petition be allowed in terms of prayer clause (a) and the prayer clause is reproduced in that paragraph.

4. Considering the no objection given by the Respondent No.2 – original Complainant, it is clear that the Complainant does not want to proceed against the present Petitioner. Therefore, on this concession, the Petition can be allowed.

5. Hence, the following order:

#### ORDER

- i) The Petition is allowed in terms of prayer clause  
(a) which reads thus:

“a) writ in the nature of certiorari or mandamus or such other appropriate writ / order or direction with regard to quashing / recall of Summons dated 09.09.2021 issued by Addl. Chief Metropolitan magistrate Court Sewree, Sh. S.P. Kekani (MM 6<sup>th</sup> Court) in Summons Cases 602150/2021 namely, Hiranandani Financial Services Pvt. Ltd. vs Margdarshak Financial Services

Ltd. filed under Section 138 of  
The Negotiable Instruments  
Act, 1881 against this  
Petitioner;”

ii) The Petition is disposed of.

**(SARANG V. KOTWAL, J.)**