

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

CRIMINAL WRIT PETITION NO. 347 OF 2023

Vaikunth Gangaram Gurud

... Petitioner

v/s.

Heena Metal Private Limited
and ors.

.... Respondents

Ms. Savita Nangare i/b. Atham Legal for the Petitioner.

Mr. Kunal Dalal for Respondent No.1.

Mr. M.G. Patil, APP for the State.

CORAM: R.G. AVACHAT, J.

DATED : 25th JANUARY, 2023.

P. C. :-

. Heard learned counsel for the respective parties.

2. The challenge in this Writ Petition is to the order of the issuance of process under section 138 of the Negotiable Instruments Act. The said order dates back to the year 2017. Learned counsel for the Petitioner has sought for quashing of entire proceedings.

3. Learned counsel for the Respondent-complainant waives service of notice on behalf of Respondent No.1. Learned counsel for the Petitioner submits that it was a family business started in 2000. With the passage of time, the brothers parted ways. The business was taken

over by the elder brother. He took all the responsibility of the business. Necessary change in the bank record and bank accounts was also made. These things happened in 2014. With the further transaction, the present Petitioner was no way concerned. She further submits that the Petitioner was disqualified for being a Director of the company. She has placed on record order dated 11/10/2022 passed by this Court in Writ Petition No.3230 of 2022. Ad-interim relief appears to have been granted in favour of the Petitioner. She has also invited my attention to paragraph 23 and 29 of the judgment of the Apex Court in ***Sunita Palita and ors. v/s. M/s. Panchami Stone Quarry [Criminal Appeal No.__/2022 arising out of SLP (Crl.) No.10396 of 2019]***

4. The above submissions made by the learned counsel for the Petitioner might be true but these are all factual matrix to be placed before the Trial Court in his evidence and for these reasons, the Court is not inclined to even issue notice in the matter.

5. Moreover, the records indicate that the plea was recorded long back. Evidence of the complainant has been over. The stage in the case is now for recording of 313 statement. In view of this factual development in the case, the Court is not inclined to issue notice in the

matter. It is however informed that the non bailable warrant has been issued against the Petitioner. The same is hereby canceled. The Petitioner shall appear before the Trial Court and co-operate with the further proceedings in the matter. As and when his presence is not required, the Trial Court shall grant him exemption from appearance.

6. In view of the above facts and circumstances, the Petition stands dismissed.

(R.G. AVACHAT, J.)

**PREETI
H JAYANI**

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