IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.730 OF 2022

1. Shri Mukund Ajay Kumar Choudhary, Aged - 50 years, Occ. Nil R/o. 7, Padmini Enclave, Hauz Khas, New Delhi – 110016 … APPLICANTS

2. Shri Kapil s/o Ajay Kumar Choudhary, Aged:- 48 yrs. Occ:- Nil R/o 6, Fern Hill, DLF Chattarpur Farms, Chattarpur, New Delhi 110074

3. Shri Ajay Kumar Choudhary, Aged :- 74 yrs. Occ: Nil R/o 6A, Fern Hill, DLF Chattarpur Farms, Chattarpur, New Delhi 110074

// VERSUS //

K.B. Board Mills LLP Having Regd. Office at : 1/169, Kochar Kothi, Ram Mandir Ward, Hinghanghat, District Wardha, through its Partner, Shri Dinesh Kumar s/o Bhagchandji Kochar, Aged : 53 yrs. R/o Kochar Kothi, Ram Mandir Ward, Hinghanghat, Dist. Wardha. … RESPONDENT

Shri Prafulla S. Khubalkar, Advocate alongwith Shri Arvind Gupta, Advocates for the applicants.
Shri Amit R. Agrawal, Advocate for the respondent.

CORAM : G. A. SANAP, J.
DATE:- 23/02/2023

ORAL JUDGMENT

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned Advocates for the parties.

2. In this application made under Section 482 of the Code of Criminal Procedure (for short "the Cr.P.C.") the applicants, who are accused Nos.2, 3 and 4 respectively in a complaint case, have prayed for quashing the Summary Criminal Complaint Case No.1185/2019 pending before the Judicial Magistrate, First Class, Hinganghat, District Wardha.

3. The facts giving rise to this application are as follows:

The applicant Nos.1 to 3 are the accused Nos.2, 3 and 4 respectfully in the Criminal Complaint case (hereinafter referred to as

"accused Nos.2, 3 and 4"). The Respondent is the complainant (hereinafter referred to as **"complainant"**). The complainant filed the complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as **"the N.I. Act"**). In the said complaint, the accused No.1/ CLC Industries Ltd. is a company. The accused Nos.2 to 7 are the Directors of the said company, in their various capacities. The accused Nos.8 and 9 are the authorized signatories to the cheque in question. It is stated that the complainant supplied on credit paper cones to the accused No.1 at its Buttibori plant from time to time. The amount of Rs.20,00,000/- (Rs. Twenty Lacs Only) was due and payable by the company. In order to clear the out standing dues the accused Nos.8 and 9, in their capacity as authorized signatories of the company issued a cheque for Rs.20,00,000/- dated 26/12/2018 bearing No.43783 to the complainant. The cheque was presented for encashment through the bank of the complainant. The cheque was dishonoured for the reason, "Drawers Signature Differs". The complainant sent demand notice. Notice was replied but, the amount of cheque was not paid. Therefore, the complainant filed the complaint under Section 138 of the N.I. Act. Learned Magistrate recorded verification statement of the deponent on behalf of the firm. On the basis of the material on record, learned Magistrate issued process against accused for an offence punishable under Section 138 of the N.I. Act.

4. The accused Nos.8 and 9 only appeared before the learned Magistrate pursuant to the service of notice. Remaining accused did not appear before the learned Magistrate. The accused Nos.2, 3 and 4 have filed this application for quashing the criminal complaint against them. The accused Nos.5, 6 and 7 have not filed any proceeding either challenging the order of issuance of process or quashing the criminal complaint.

5. In this application, the main ground in support of prayer is that all the Directors have been made an accused in the criminal case without any specific averments against each of them. Vague and bald statements have been made in the complaint against the accused Nos.2 to 7, that they were in-charge of and responsible for the conduct of the business of accused No.1/Company. It is stated that on the basis of such general averments, the complaint against the accused Nos.1 to 3 cannot be prosecuted. It is stated that learned Judicial Magistrate before issuance of process has not taken this aspect into consideration. It is further stated that the accused

No.1/Company is in Corporate Insolvency Resolution Process and a Resolution Professional has already been appointed by the National Company Law Tribunal, New Delhi (for short "the NCLT, New Delhi) by order dated 03/01/2020. The moratorium has been imposed viz-a-viz the accused No.1/Company, a Corporate Debtor in terms of Section 14 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as **"IB Code**").

6. As far as the accused No.2 is concerned, it is stated that by order dated 08.04.202, passed by the N.C.L.T., New Delhi, the interim moratorium under Section 96 of the I.B. Code has been invoked. The accused No.2 is the personal guarantor to the company. It is, therefore, stated that in view of the imposition of moratorium viz-a-viz the accused No.2 by the N.C.L.T., New Delhi this proceeding against the accused No.2 cannot be continued. The copy of the order passed by the N.C.L.T., New Delhi dated 08.04.2021 is at Annexure A-5. It is submitted that therefore, in view of the imposition of the interim moratorium viz-a-viz the accused No.2 and during the continuation of the insolvency proceeding, the complaint under Section 138 of the N.I. Act cannot be proceeded against him. The accused Nos.3 and 4 have contended that since the

moratorium has been imposed under Section 14 of the I.B. Code viz-a-viz Corporate Debtor namely the accused No.1/Company, this complaint cannot be continued against them. On all these grounds, they have prayed that the complaint filed by the complainant be quashed and set aside.

7. The complainant has filed reply and opposed the application. There is hardly any dispute about the initiation of insolvency proceedings viz-a-viz company/the accused No.1 and accused No.2. Similarly, there is no dispute with regard to the imposition of moratorium viz-a-viz the accused No.1 and the accused No.2. It is contended that even if it is assumed that the accused Nos.1 and 2 are entitled for certain reliefs during the pendency of the insolvency proceeding, the benefit of the same cannot be extended to remaining accused.

8. According to the complainant, the facts stated in the complaint are very clear. There is no ambiguity as well as vagueness in the complaint. The complainant has categorically stated that the accused No.2 is the Managing Director of the accused No.1/Company. It is also stated that the accused Nos.3 and 4 are the

whole time Directors of the accused No.1/Company. It is stated that the accused Nos.2 to 4 are looking after the affairs of the accused No.1/Company. It is stated that the accused Nos.8 and 9 are the signatories to the cheque in their capacity as the authorized signatories of the Company. In paragraph No.4, it is stated that the accused Nos. 5 and 6 are the Directors of the accused No.1/Company. It has been specifically averred in paragraph No.5 that all the accused Nos. 2 to 7 are in-charge of and responsible to the conduct of the business of the accused No.1/Company. This statement has been reiterated in the notice. It is, therefore, contended that this pleading is sufficient to fasten vicarious liability on all the Directors. It is further contended that this pleading is sufficient to maintain the complaint against them.

9. I have heard Shri Prafulla S. Khubalkar and Shri Arvind Gupta, learned Advocates for the applicants and Shri Amit Agrawal, learned Advocate for the respondent. Perused the record and proceeding.

10. In this application, primarily two issues arise. First is whether all the Directors are immune from the prosecution under

Section 138 of the N.I.Act, in view of the imposition of the moratorium by the N.C.L.T., New Delhi under Section 14 of the I.B. Code, viz-viz Corporate Debtor accused No.1/Company?

11. The next connected question is whether the accused No.2 is entitled to seek stay to the prosecution in view of the imposition of moratorium under Section 96 of the I.B. Code in his individual capacity vide order dated 08.04.2021 by N.C.L.T., New Delhi under Section 96 of the I.B. Code?

12. Learned Advocate for the applicants submitted that in view of the imposition of the moratorium under Section 14 of the I.B. Code viz-a-viz Corporate Debtor, the accused No.1/Company, prosecution against company and Directors cannot be continued. Learned Advocate further submitted that in case of the accused No.2, since in his individual insolvency proceeding moratorium has been imposed under Section 96 of the I.B. Code being a personal guarantor to the Company this 138 N.I. Act proceeding cannot be continued against him during the pendency of the insolvency proceeding.

13. Learned Advocate for the complainant submitted that the Directors of the Company are not immune from prosecution in view of the imposition of the moratorium by the N.C.L.T., New Delhi viz-a-viz the Corporate Debtor, the accused No.1/Company. As far as, the accused No.2 is concerned, learned Advocate submitted that to the extent of his individual interest, he can avail the benefit of the imposition of the moratorium by the N.C.L.T., New Delhi in his individual insolvency proceeding under Section 96 of the I.B. Code.

14. Learned Advocates for both the parties, in order to buttress their submissions placed heavy reliance on decision in the case of ***P. Mohanraj and Others Vs. Shah Brothers Ispat Private Limited*** reported in ***(2021) 6 SCC 258.*** The learned Advocates for the parties took me through the judgment and more particularly through paragraph Nos.101 and 102 of the decision. It would be profitable to re-produce paragraph Nos.101 and 102 of the judgment in the case of ***P. Mohanraj and Others (supra).***

It reads thus:-

WHETHER NATURAL PERSONS ARE COVERED BY SECTION 14 IBC

"101. As far as the Directors/persons in management or control of the corporate debtor are concerned, a Sections

138/141 proceeding against them cannot be initiated or continued without the corporate debtor – see Aneeta Hada V. Godfather Travels & Tours (P) Ltd. reported in (2012) 5 SCC 661. This is because Section 141 of the Negotiable Instruments Act speaks of persons in charge of, and responsible to the company for the conduct of the business of the company, as well as the company. The Court, therefore, in Aneeta Hada (supra) held as under: (SCC pp. 686-88, paras 51, 56 and 58-59)

"51. We have already opined that the decision in Sheoratan Agarwal Vs. State of M.P. [(1984) 4 SCC 352 : runs counter to the ratio laid down in State of Madras Vs. C.V. Parekh (1970) 3 SCC 491 which is by a larger Bench and hence, is a binding precedent. On the aforesaid ratiocination, the decision in Anil Hada Vs. Indian Acrylic Ltd., (2000) 1 SCC 1 has to be treated as not laying down the correct law as far as it states that the Director or any other officer can be prosecuted without impleadment of the company. Needless to emphasise, the matter would stand on a different footing where there is some legal impediment and the doctrine of lex non cogit ad impossibilia gets attracted."

"56. We have referred to the aforesaid passages only to highlight that there has to be strict observance of the provisions regard being had to the legislative intendment because it deals with penal provisions and a penalty is not to be imposed affecting the rights of persons, whether juristic entities or individuals, unless they are arrayed as accused. It is to be kept in mind that the power of punishment is vested in the legislature and that is absolute in Section 141 of the Act which clearly speaks of commission of offence by the

company. The learned counsel for the respondents have vehemently urged that the use of the term "as well as" in the section is of immense significance and, in its tentacle, it brings in the Company as well as the Director and/or other officers who are responsible for the acts of the Company and, therefore, a prosecution against the Directors or other officers is tenable even if the company is not arraigned as an accused. The words "as well as" have to be understood in the context."

"58. Applying the doctrine of strict construction, we are of the considered opinion that commission of offence by the Company is an express condition precedent to attract the vicarious liability of others. Thus, the words "as well as the Company" appearing in the Section make it absolutely unmistakably clear that when the Company can be prosecuted, then only the persons mentioned in the other categories could be vicariously liable for the offence subject to the averments in the petition and proof thereof. One cannot be oblivious of the fact that the Company is a juristic person and it has its own respectability. If a finding is recorded against it, it would create a concavity in its reputation. There can be situations when the corporate reputation is affected when a Director is indicted.

59. In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a company as an accused is imperative. The other categories of offenders can only be brought in the drag-net on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in C.V. Parekh (supra) which is a three-Judge

Bench decision. Thus, the view expressed in Sheoratan Agarwal (supra) does not correctly lay down the law and, accordingly, is hereby overruled. The decision in Anil Hada (supra) is overruled with the qualifier as stated in para 51. The decision in U.P. Pollution Control Board Vs. Modi Distillery (1987) 3 SCC 684 has to be treated to be restricted to its own facts as has been explained by us hereinabove."

102. Since the corporate debtor would be covered by the moratorium provision contained in Section 14 IBC, by which continuation of Sections 138/141 proceedings against the corporate debtor and initiation of Sections 138/141 proceedings against the said debtor during the corporate insolvency resolution process are interdicted, what is stated in paragraphs 51 and 59 in Aneeta Hada (supra) would then become applicable. The legal impediment contained in Section 14 IBC would make it impossible for such proceeding to continue or be instituted against the corporate debtor. Thus, for the period of moratorium, since no Sections 138/141 proceeding can continue or be initiated against the corporate debtor because of a statutory bar, such proceedings can be initiated or continued against the persons mentioned in Section 141(1) and (2) of the Negotiable Instruments Act. This being the case, it is clear that the moratorium provision contained in Section 14 of the IBC would apply only to the corporate debtor, the natural persons mentioned in Section 141 continuing to be statutorily liable under Chapter XVII of the Negotiable Instruments Act."

15. Perusal of the above quoted paragraphs would indicate that the proceeding can be initiated and continued against the persons mentioned in Section 141(1) and (2) of the N.I.Act. In this case, the Hon'ble Apex Court has held that the moratorium provision contained in Section 14 of the I.B. Code would apply only to the corporate debtor and the natural persons mentioned in Section 141 would continue to be statutorily liable under Chapter XVII of the N.I. Act. In my view, as far as the accused Nos. 3 and 9 are concerned, they are not entitled for the benefit of imposition of interim moratorium viz-a-viz Corporate Debtor/the accused No.1/Company. As far as, the accused No.2 is concerned, in the ordinary circumstances, he would not have been entitled to get benefit of the moratorium imposed under Section 14 viz-a-viz Corporate Debtor. In the fact situation the case of the accused No.2 is required to be examined separately in view of the imposition of the moratorium in his individual insolvency case under Section 96 of the I.B. Code. I, therefore, conclude that as far as the accused Nos.3 and 9 are concerned, they are not entitled to get the benefit of the moratorium imposed under Section 14 of the I.B. Code vide order dated 03.01.2020 by the N.C.L.T., New Delhi. On this count, their

contention deserves to be rejected.

16. As far as the accused No.2 is concerned, he is relying upon order passed by N.C.L.T., New Delhi dated 08.04.2021 under Section 94 of the I.B. Code. The accused No.2 initiated the said insolvency proceeding. He prayed for interim moratorium under Section 96 of the I.B. Code. The N.C.L.T., New Delhi imposed the interim moratorium under Section 96. In the insolvency application of the accused No.2, the N.C.L.T., New Delhi directed the resolution professional to file report as required under Section 97(1) of the I.B. Code. It is to be noted that in view of this order Section 96 of the I.B. Code will come into operation. As per Section 96 (1)(b)(i) in case of imposition of interim moratorium, by deeming fiction, during the interim moratorium period, any legal action or proceeding pending in respect of any debt shall remain stayed. Therefore, the accused No.2 would also be entitled to exercise right and benefits conferred under Section 96 of the I.B. Code. In my view, therefore, during the pendency of the insolvency proceeding the complaint cannot be prosecuted against the accused No.1 and 2.

17. Before parting with this subject, it is necessary to make a brief mentioned of the observations of Hon'ble Apex Court from para Nos.41 and 42 of the decision in the case of ***P. Mohanraj and Others (supra).*** It is observed that the moratorium period would come to an end with the resolution plan by a new Management being approved by the adjudicating authority and after that, the corporate debtor would not be liable for prosecution under Section 138 of the N.I.Act. It is further held that the moratorium provision does not extinguish any liability, civil or criminal, but only casts a shadow on proceedings already initiated and on proceedings to be initiated, which shadow is lifted when the moratorium period comes to an end.

18. The next important question that needs to be addressed is whether the pleading in the complaint is sufficient to satisfy the basic ingredients of Section 138 read with Section 141 of the N.I. Act for the purpose of issuance of process against the accused Nos.2 to 7?

19. It is submitted on behalf of the accused persons that general and vague allegations have been made in the complaint.

No specific statement has been incorporated in the complaint to held all the directors vicariouly liable to face the prosecution. Learned Advocate for the accused submitted that bald statement in the complaint that the accused Nos.2 to 7 are in-charge of and responsible for the conduct of business of accused No.1/Company, is not sufficient to fasten the liability for prosecution and thereby the vicarious liability.

20. As against this, learned Advocate for the complainant submitted that the necessary particulars viz-a-viz the positions and status of each and every director has been mentioned in the complaint. Learned Advocate submitted that the accused Nos.3 and 4 are admittedly the whole time directors of accused No.1/Company. As far as remaining Directors are concerned, the learned Advocate submitted that they have not filed any proceeding before this Court. It is, therefore, submitted that their grievance and the rights, if any, cannot be dealt with and adjudicated upon in this proceeding.

21. In order to substantiate his submission learned Advocate for the applicants relied upon decisions in the cases of ***Sunita Palita and others Vs. Panchami Stone Quarry*** reported in

(2022) 10 SCC 152, S.M.S. Pharmaceuticals Ltd. Vs. Neeta Bhalla and another *reported in* ***(2005) 8 SCC 89, Ashoke Mal Bafna Vs. Upper India Steel Manufacturing and Engineering Company Limited*** *reported in* ***(2018) 14 SCC 202*** *and* ***Standard Chartered Bank Vs. State of Maharashtra and others*** *reported in* ***(2016) 6 SCC 62.***

22. Learned Advocate for the complainant in order to substantiate his submission relied upon decision in the case of ***N. Rangachari Vs Bharat Sanchar Nigam Ltd.****, reported in* ***(2007) 5 SCC 108*** and decision in the case of ***S.P. Mani and Mohan Dairy Vs. Dr. Snehalatha Elangovan 2022 SCC Online SC 1238.***

23. The recent judgment which has considered this point in great detail is in the case of ***S.P. Mani (supra).*** In this decision, the Hon'ble Apex Court has considered its earlier decisions in the cases of ***Sunita Palita and others (supra)*** and ***S.M.S. Pharmaceuticals Ltd. (supra).*** In the case of ***Standard Chartered Bank Vs. State of Maharashtra and others (supra),*** the decision in the case of ***S.M.S. Pharmaceuticals Ltd.*** was considered.

24. It is, therefore, seen that judgments relied upon by the learned Advocate for the accused, to substantiate his submission, have been considered in the case of ***S.P. Mani (supra)***. In view of this position, it would be necessary to consider the applicability of the law laid down on the disputed point in ***S.P. Mani (supra)*** to the case on hand. After considering all the earlier judgments, the law has been laid down in paragraph Nos. 33, 46 and 47. The paragraph Nos. 33, 46 and 47 are reproduced below:-

> "33. Thus, the legal principles discernible from the aforesaid decision of this Court may be summarised as under:
>
> (a) Vicarious liability can be fastened on those who are in-charge of and responsible to the company or firm for the conduct of its business. For the purpose of Section 141, the firm comes within the ambit of a company;
>
> (b) It is not necessary to reproduce the language of Section 141 verbatim in the complaint since the complaint is required to be read as a whole;
>
> (c) If the substance of the allegations made in the complaint fulfil the requirements of Section 141, the complaint has to proceed in regards the law.
>
> (d) In construing a complaint a hyper-technical approach should not be adopted so as to quash the same.
>
> (e) The laudable object of preventing bouncing of cheques and sustaining the credibility of commercial transactions resulting in the enactment of Section 138 and 141

respectively should be kept in mind by the Court concerned.

(f) These provisions create a statutory presumption of dishonesty exposing a person to criminal liability if payment is not made within the statutory period even after the issue of notice.

(g) The power of quashing should be exercised very sparingly and where, read as a whole, the factual foundation for the offence has been laid in the complaint, it should not be quashed. (h) The Court concerned would owe a duty to discharge the accused if taking everything stated in the complaint is correct and construing the allegations made therein liberally in favour of the complainant, the ingredients of the offence are altogether lacking.

46. When in view of the basic averment process is issued the complaint must proceed against the Directors or partners as the case may be. But, if any Director or Partner wants the process to be quashed by filing a petition under Section 482 of the Code on the ground that only a bald averment is made in the complaint and that he is really not concerned with the issuance of the cheque, he must in order to persuade the High Court to quash the process either furnish some sterling incontrovertible material or acceptable circumstances to substantiate his contention. He must make out a case that making him stand the trial would be an abuse of process of court. He cannot get the complaint quashed merely on the ground that apart from the basic averment no particulars are given in the complaint about his role, because ordinarily the basic averment would be sufficient to send him to trial and it could be argued that his further role could be brought out in the trial. Quashing

of a complaint is a serious matter. Complaint cannot be quashed for the asking. For quashing of a complaint, it must be shown that no offence is made out at all against the Director or Partner.

47. Our final conclusions may be summarised as under: (a.) The primary responsibility of the complainant is to make specific averments in the complaint so as to make the accused vicariously liable. For fastening the criminal liability, there is no legal requirement for the complainant to show that the accused partner of the firm was aware about each and every transaction. On the other hand, the first proviso to subsection (1) of Section 141 of the Act clearly lays down that if the accused is able to prove to the satisfaction of the Court that the offence was committed without his/her knowledge or he/she had exercised due diligence to prevent the commission of such offence, he/she will not be liable of punishment.

b.) The complainant is supposed to know only generally as to who were in charge of the affairs of the company or firm, as the case may be. The other administrative matters would be within the special knowledge of the company or the firm and those who are in charge of it. In such circumstances, the complainant is expected to allege that the persons named in the complaint are in charge of the affairs of the company/firm. It is only the Directors of the company or the partners of the firm, as the case may be, who have the special knowledge about the role they had played in the company or the partners in a firm to show before the court that at the relevant point of time they were not in charge of the affairs of the company. Advertence to Section 138 and Section 141 respectively of the NI Act shows that on the other elements of an offence under Section 138 being satisfied, the burden is on the Board of Directors or the officers in charge of the affairs of the company/partners of a firm to show that they were not liable to be convicted. The existence of any special circumstance that makes them not liable is something that is peculiarly within their knowledge and it is for them to establish at the trial to show that at the relevant time they were not in charge of the affairs of the company or the firm.

c.) Needless to say, the final judgment and order would depend on the evidence adduced. Criminal liability is attracted only on those, who at the time of commission of the offence, were in charge of and were responsible for the conduct of the business of the firm. But vicarious criminal liability can be inferred against the partners of a firm when it is specifically averred in the complaint about the status of the partners 'qua' the firm. This would make them liable to face the prosecution but it does not lead to automatic conviction. Hence, they are not adversely prejudiced if they are eventually found to be not guilty, as a necessary consequence thereof would be acquittal.

d.) If any Director wants the process to be quashed by filing a petition under Section 482 of the Code on the ground that only a bald averment is made in the complaint and that he/she is really not concerned with the issuance of the cheque, he/she must in order to persuade the High Court to quash the process either furnish some sterling incontrovertible material or acceptable circumstances to substantiate his/her contention. He/she must make out a case that making him/her stand the trial would be an abuse of process of Court."

25. In my view, the answer to all the questions raised can be found in the above quoted two paragraphs. In view of this settled legal position, in my view, the facts pleaded in the complaint are sufficient to make out the basic ingredients of the offence punishable under Section 138 of the NI Act. It cannot be said that the pleading is lacking in any manner.

26. Perusal of the complaint would show that in paragraph No.3 the capacity and position of the accused Nos.2, 3 and 4 has been stated. It is averred that the accused Nos.2 to 4 are looking after the affairs of the company. It is stated in paragraph No.4 that the accused Nos. 5, 6 and 7 are the Directors of the accused No.1/ Company. In paragraph No.5, it is stated that the accused Nos. 2 to 7 are in-charge of and responsible for the conduct of the business of accused No.1/Company. In my view, this pleading is sufficient. This pleading satisfies the legal test laid down in paragraph Nos. 46 and 47 in the decision of ***S.P. Mani (supra).*** Therefore, in my view, on this ground, submissions advanced on behalf of the accused cannot be entertained.

27. In view of my finding viz-a-viz accused Nos. 1 and 2, it

has to be held that during the continuation of the insolvency proceeding and particularly the moratorium, the complaint filed by the complainant cannot be continued against the Company/accused No.1 and the accused No.2. The complainant cannot prosecute the complaint against the accused No.1 /Company and accused No.2. As far as the remaining accused are concerned, in view of the decision in ***P. Mohanraj and Others (supra)*** they are liable for prosecution and prosecution can continue against them. It is, therefore, made clear that the complaint shall remain in abeyance against the Company/the accused No.1 and the accused No.2.

28. Criminal Application stands disposed of in the above terms. Rule accordingly.

JUDGE

manisha