



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 1668 OF 2022

Sachin Damodar Khade & another ..VS.. Parijat Infraventures Pvt. Ltd. & another
AND

CRIMINAL APPLICATION (APL) NO. 1669 OF 2022

Sushil S/o Wamanrao Shire ..VS.. Parijat Infraventures Pvt. Ltd. & another
AND

CRIMINAL APPLICATION (APL) NO. 1678 OF 2022

Pawan S/o Yadaorao Bhaisare & another ..VS.. Parijat Infraventures Pvt. Ltd. & another
AND

CRIMINAL APPLICATION (APL) NO. 1674 OF 2022

Sachin Damodar Khade & another ..VS.. Parijat Infraventures Pvt. Ltd. & another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.K. Bhoyar, Advocate for applicants in all APLs.
Mr. D.U. Thakare, Advocate for respondent No.2 in all APLs.

CORAM : ANIL L. PANSARE, J.

ARGUMENTS WERE HEARD ON : 21.08.2023

ORDER PRONOUNCED ON : 25.08.2023

Heard.

2. The applicants have filed application under Section 482 of the Code of Criminal Procedure (for short, “the Code”) to seek quashing of Summary Criminal Case Nos.13356/2022, 13354/2022, 13357/2022 and 13355/2022, filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, “N.I. Act”). In all Criminal Applications, the applicants are accused, the respondent No.1 is the complainant through one of its Director – Shri Sunil S/o Tulshiram Sathawane. The

respondent No.2, along with applicants is also an accused.

3. Learned counsel for the applicants submits that the applicants have held office as Directors of the company from 10.03.2022 and, therefore, they cannot be held liable for the acts done prior thereto. He further submits that averments made in the complaint against the present applicants are vague.

4. I have gone through the complaint. In paragraph No.2, the complainant states the role of the directors as under :-

“2. That accused No.1, is also private limited company and accused No.2 to 4 are the Directors of accused No.1, company. All the accused/directors are looking after and doing business activity of accused No.1 Company and they all are jointly and severally liable and responsible for the said day to day transaction, business activity as well as liability and responsibility of accused No.1, Company.”

5. Thus, the complainant states that accused Nos.2 to 4 were Directors and were looking after and doing the business activities of accused No.1 - Company and were jointly and severally responsible for day to day transaction and business activities of the accused No.1 Company.

6. The Hon'ble Supreme Court in the case of ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of***

Maharashtra & others, reported in ***AIR 2021 SC 1918***, held in the concluding paragraph that while examining the FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint. The Court further held that quashing of FIR/complaint should be an exception and a rarity than an ordinary rule.

7. The trial Court has issued summons to the applicants, however, the applicants instead of appearing before the trial Court, have filed the present applications. I do not find any reason why the applicants did not approach the trial Court and raised grievance as put forth here.

8. In the circumstances and taking into consideration the averments made in the complaint in paragraph No.2, coupled with the law laid down in the case of *Neeharika Infrastructure Pvt. Ltd.* (supra), no case is made out by the applicants.

9. Accordingly, the Criminal Application (APL) Nos.1668/2022, 1669/2022, 1678/2022 and 1674/2022 are rejected. No costs.

(ANIL L. PANSARE, J.)