



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

CRIMINAL WRIT PETITION NO. 225 OF 2024

Heena w/o Prashant Lakhani

wrongly mentioned as Meena w/o
Prashant Lakhani before Lower Court
Aged about Occ. Housewife,
R/o Capitol Heights, Medical Square,
Tq. & Dist. Nagpur

... PETITIONER

// V E R S U S //

Nirmal Ujjwal Credit Co-operative

Society Ltd, Nagpur, through its authorized
Officer, having its main office at 193
Nandavan main Road, Nagpur

... RESPONDENT

Mr D.V. Chauhan, Senior Advocate along with Mr. Amit Band, Advocate for the
petitioner.

Mr. V.J. Dharkar, Advocate for the respondent.

CORAM : G. A. SANAP, J.

DATE : 03.12.2024

ORAL JUDGMENT :

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

2. This petition has been filed for quashing the criminal complaint bearing SCC No.14173/2015 pending on the file of the learned Judicial Magistrate First Class, Nagpur, against accused No.2. In the complaint, the process has been issued against two accused, who have been arrayed in the complaint, being the Directors of Aditi Express Cargo India Private Limited.

3. It is the principal submission of the learned Senior Advocate for the petitioner-accused No.2 that the cheque was issued on 25.03.2015 by accused No.1. Accused No. 2, on the date of the issuance of the cheque, was not the Director of the Company. She resigned as Director on 31.12.2013. By resolution of the Board of Directors, her resignation as a Director was accepted on 31.12.2013.

4. In this factual background, it is submitted that cognizance of the offence taken against the petitioner-accused No.2 was not in accordance with law. She was not liable to be

prosecuted.

5. Learned Advocate for the complainant/respondent on instruction, has submitted that as far as the resignation is concerned, the record of Registrars of Company (R.O.C.) indicates that accused No.2 resigned as a Director of the accused company on 31.12.2013.

6. The certified extract downloaded from the website of Ministry of Corporate Affairs, Union of India has been placed on record. The certified extract shows the date of the resignation of accused No.2 as a Director of the Company. The resignation has been given effect from 31.12.2013 as per this document. It is evident that on the date of issuance of the cheque, which as per law, is the first part of the cause of action, accused No.2 was not the Director of the company. It is true that this fact was not brought to the notice of the complainant by way of written communication. In my view, on this basis

alone, the prosecution of the complaint against accused No.2 cannot be justified. The details of the company, including the Directors, the resignation of Directors and appointment of new Directors are available in the public domain.

7. In view of this, I conclude that the prosecution against accused No.2 is neither tenable nor warranted. The quashing of the prosecution against accused No.2 will not in any manner dent the prosecution against the company and accused No.1.

8. In view of this, the complaint filed by the complainant against accused No.2 deserves to be quashed.

9. Criminal Writ Petition is accordingly, allowed.

10. Rule is made absolute in terms of prayer clause (1).

(G. A. SANAP, J.)