



NC: 2024:KHC-K:7406
CRL.P No. 201717 of 2023
C/W CRL.P No. 201714 of 2023
CRL.P No. 201715 of 2023
CRL.P No. 201716 of 2023

**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

**DATED THIS THE 26TH DAY OF SEPTEMBER, 2024
BEFORE**

THE HON'BLE MR. JUSTICE K NATARAJAN

CRIMINAL PETITION NO.201717 OF 2023

(482(Cr.PC)/528(BNSS))

C/W

CRIMINAL PETITION NO.201714 OF 2023

(482(Cr.PC)/528(BNSS))

CRIMINAL PETITION NO.201715 OF 2023

(482(Cr.PC)/528(BNSS))

CRIMINAL PETITION NO.201716 OF 2023

(482(Cr.PC)/528(BNSS))

IN CRL.P.NO.201717/2023:

BETWEEN:

Digitally signed
by SHIVALEELA
DATTATRAYA
UDAGIRI
Location: High
Court Of
Karnataka

M/S. BALAJI TEXTILES
VEMAVARAM VILLAGE PHIRANGIPURAM,
MANDAL, GUNTUR DISTRICT,
REPRESENTED BY PARTNER,
SRI. SRINIVAS RAO CHUNDURU,
S/O LATE CHUNDURU NAGA VEERANJANEYULU,
AGE: 49 YEARS, OCC: BUSINESS,
R/O FLAT NO.204, MAYURI DELUX APARTMENTS,
BESIDES TELECOM OFFICE,
RING ROAD, CHANDRAMOULI NAGAR,
GUNTUR-500007,
(ANDHRA PRADESH),
AS PER PROPOSED AMENDMENT.

...PETITIONER

(BY SRI. SANJAY A. PATIL, ADVOCATE)



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AND:

M/S PAGUNTA SWAMY COTTON GINNING FACTORY,
PLOT NO.71/72, INDUSTRIAL AREA,
HYDERABAD ROAD, RAICHUR-584101,
REPRESENTED BY PROPRIETOR,
SRI A. VEERESH S/O A. PAGUNTA,
AGE: MAJOR, OCC: BUSINESS,
RAICHUR-584101.

...RESPONDENT

(BY SYED FAYAZUDDIN, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C. PRAYING TO QUASH THE IMPUGNED ORDER DATED
27.04.2023 PASSED BY PRL. CIVIL JUDGE AND JMFC-II
RAICHUR IN C.C.NO.1284/2019 [P.C.NO.258/2019] ON ITS
FILE AND CONSEQUENTLY QUASH THE ENTIRE FURTHER
PROCEEDINGS IN C.C.NO.1284/2019, INsofar AS
PETITIONER IS CONCERNED.

IN CRL.P.NO. 201714 OF 2023:

BETWEEN:

M/S. BALAJI TEXTILES
VEMAVARAM VILLAGE PHIRANGIPURAM
MANDAL, GUNTUR DISTRICT,
REPRESENTED BY PARTNER,
SRI. SRINIVAS RAO CHUNDURU
S/O LATE CHUNDURU NAGA VEERANJANEYULU,
AGE: 49 YEARS, OCC: BUSINESS,
RESIDENCE OF FLAT NO.204,
MAYURI DELUX APARTMENTS,
BESIDES TELECOM OFFICE RING ROAD,
CHANDRAMOULI NAGAR, GUNTUR-500007,
(ANDHRA PRADESH),
AS PER PROPOSED AMENDMENT.

...PETITIONER

(BY SRI. SANJAY A. PATIL, ADVOCATE)



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M/S PAGUNTA SWAMY COTTON GINNING FACTORY,
PLOT NO.71/72, INDUSTRIAL AREA,
HYDERABAD ROAD, RAICHUR-584101.
REPRESENTED BY PROPRIETOR,
SRI. A. VEERESH S/O A. PAGUNTA,
AGE: MAJOR, OCC: BUSINESS,
RAICHUR-584101.

...RESPONDENT

(BY SRI. SYED FAYAZUDDIN, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C. PRAYING TO QUASH THE IMPUGNED ORDER DATED
27.04.2023 PASSED BY PRL. CIVIL JUDGE AND JMFC-II
RAICHUR IN C.C.NO.1283/2019 ON ITS FILE AND
CONSEQUENTLY QUASH THE ENTIRE FURTHER PROCEEDINGS
IN C.C.NO.1283/2019, INsofar AS PETITIONER IS
CONCERNED.

IN CRL.P NO.201715 OF 2023:

BETWEEN:

1. M/S. SRI. VENKATA UMASHANKARA
SPINTEX PVT. LTD.,
CHAPARALAVARI STREET GUNTUR,
(ANDHRA PRADESH STATE)
2. SRI. SRINIVAS RAO CHUNDURU
S/O LATE CHUNDURU NAGA VEERANJANEYULU,
AGE: 49 YEARS, OCC: BUSINESS,



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3. SRI/SMT. VENKATA SIVA
SMT. NAGINI THIPURAMALLU,
W/O SRI. LATE CHUNDURU VENKATESHWARA RAO,
4. SRI/SMT. CHUNDURU VENKATA
NAGA RATNA VISALAKSHMI
W/O CHUNDURU SRINIVAS RAO,
ALL RESIDENCE OF FLAT NO.204,
MAYURI DELUX APARTMENTS, BESIDES,
TELECOM OFFICE RING ROAD,
CHANDRAMOULI NAGAR, GUNTUR-500007.
(ANDHRA PRADESH)

...PETITIONERS

(BY SRI. SANJAY A. PATIL, ADVOCATE)

AND:

M/S. PAGUNTA SWAMY COTTON GINNING FACTORY,
PLOT NO.71/72, INDUSTRIAL AREA,
HYDERABAD ROAD, RAICHUR-584101.
REPRESENTED BY PROPRIETOR,
SRI A. VEERESH S/O A. PAGUNTA,
AGE: MAJOR, OCC: BUSINESS,
RAICHUR-584101.

...RESPONDENT

(BY SRI. SYED FAYAZUDDIN, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C. PRAYING TO QUASH THE IMPUGNED ORDER DATED
27.04.2023 PASSED BY PRL. CIVIL JUDGE AND JMFC-II
RAICHUR IN C.C.NO.1286/2019 ON ITS FILE AND
CONSEQUENTLY QUASH THE ENTIRE FURTHER PROCEEDINGS
IN C.C.NO.1286/2019, ARISING OUT OF PCR NO.260/2019,
INSOFAR AS PETITIONERS ARE CONCERNED.



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IN CRL.P.NO.201716 OF 2023:

BETWEEN:

1. M/S. SRI. VENKATA UMASHANKARA
SPINTEX PVT. LTD.,
CHAPARALAVARI STREET GUNTUR,
(ANDHRA PRADESH STATE)
2. SRI. SRINIVAS RAO CHUNDURU
S/O LATE CHUNDURU NAGA VEERANJANEYULU,
AGE: 49 YEARS, OCC: BUSINESS,
3. SRI/SMT. VENKATA SIVA
SMT. NAGINI THIPURAMALLU,
W/O SRI. LATE CHUNDURU
VENKATESHWARA RAO,
4. SRI/SMT. CHUNDURU VENKATA
NAGA RATNA VISALAKSHMI
W/O CHUNDURU SRINIVAS RAO,
ALL R/O FLAT NO.204, MAYURI DELUX
APARTMENTS, BESIDES TELECOM OFFICE,
RING ROAD, CHANDRAMOULI NAGAR,
GUNTUR-500007.
(ANDHRA PRADESH)

...PETITIONERS

(BY SRI. SANJAY A. PATIL, ADVOCATE)

AND:

M/S. PAGUNTA SWAMY COTTON GINNING FACTORY,
PLOT NO.71/72, INDUSTRIAL AREA,
HYDERABAD ROAD, RAICHUR-584101.
REPRESENTED BY PROPRIETOR,
SRI. A. VEERESH S/O A. PAGUNTA,
AGE: MAJOR, OCC: BUSINESS,
RAICHUR-584101.

...RESPONDENT

(BY SRI. SYED FAYAZUDDIN, ADVOCATE)



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THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE IMPUGNED ORDER DATED 27.04.2023 PASSED BY PRL. CIVIL JUDGE AND JMFC-II RAICHUR IN C.C.NO.1285/2019 ON ITS FILE AND CONSEQUENTLY QUASH THE ENTIRE FURTHER PROCEEDINGS IN C.C.NO.1285/2019, ARISING OUT OF PCR NO.259/2019, INSOFAR AS PETITIONERS ARE CONCERNED.

THESE PETITIONS COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE K NATARAJAN

ORAL ORDER

(PER: HON'BLE MR. JUSTICE K NATARAJAN)

The Criminal Petition No.201717/2023 is filed by the petitioner – proposed accused under Section 482 of Cr.P.C. seeking to quash the impugned order dated 27.04.2023 passed by the Prl. Civil Judge and JMFC-II, Raichur and quash the entire further proceedings in C.C.No.1284/2019.



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02. The Criminal Petition No.201714/2023 is filed by the petitioner – proposed accused under Section 482 of Cr.P.C. seeking to quash the impugned order dated 27.04.2023 passed by the Prl. Civil Judge and JMFC-II, Raichur and quash the entire further proceedings in C.C.No.1283/2019.

03. The Criminal Petition No.201715/2023 is filed by the petitioners No.1 to 4 – proposed accused persons under Section 482 of Cr.P.C. seeking to quash the impugned order dated 27.04.2023 passed by the Prl. Civil Judge and JMFC-II, Raichur and quash the entire further proceedings in C.C.No.1286/2019.

04. The Criminal Petition No.201716/2023 is filed by the petitioners No.1 to 4 – proposed accused persons under Section 482 of Cr.P.C. seeking to quash the impugned order dated 27.04.2023 passed by the Prl. Civil Judge and JMFC-II, Raichur and quash the entire further proceedings in C.C.No.1285/2019.



05. Heard the arguments of learned counsel for petitioners and learned counsel for the respondent.

06. All these petitions are filed on the same point question of law for having amended the cause title of the company by impleading the petitioners as representative of the Company / Firm without issuing notice to the petitioners after death of the original representative of the company – Chunduru Naga Veeranjanyulu. It is alleged that after taking the cognizance by the learned Magistrate against the company / firm represented by the Chunduru Naga Veeranjanyulu, a notice has been issued, but subsequently it is came to know that the said person was died. Therefore, the respondent / complainant filed an amendment application seeking amendment of the cause title to implead these petitioners as representative of the company / firm which was allowed by the Trial Court by impugned orders, which is challenged here. Hence, the petitioners are before this Court.



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07. The learned counsel for the petitioners has contended that prior to impleading the name of the petitioners as representative of the company or partner of the firm, no notice has been issued by the Trial Court and without calling the objection and without ascertaining who is the managing director or managing partner of the company / firm, the names of the petitioners were implemented solely on the request of the complainant without notice. Therefore, prayed for setting aside the same for giving an opportunity to oppose the proposed amendment sought by the respondent to implead these petitioners as additional accused or representative of the company or partner of the firm.

08. The learned counsel for the respondents objected the petition contending that the petitioners are also partners of the firm and directors of the company. They are also responsible for the affairs of the company. Therefore, they also liable as per section 141 of the Negotiable Instrument Act. Therefore, the Trial Court



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rightly implied them as party or accused representing the company / firm. There is no flaw in the order. Hence, prayed for dismissing the petitions.

09. Alternatively, the learned counsel for the respondents also contended that in case, the Court allows these petitions for giving an opportunity to the petitioners to oppose the applications, then no fresh notice required, they shall be permitted to appear and file the objection before the Magistrate for opposing the amendment.

10. Heard the arguments and perused the impugned orders passed by the learned Magistrate in these cases. Admittedly, the private complaint came to be filed by the respondent under Section 138 of N.I. Act read with Section 200 of Cr.P.C., against the company / firm represented by one of the partner or director Chunduru Naga Veeranjanyulu. After filing of the complaint, the learned Magistrate took the cognizance, recorded the sworn statement. Thereafter, passed the order under



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Section 204 of Cr.P.C. and issued summons to the accused and the notice was not served. Subsequently, it is came to the knowledge of the complainant that the representative - Chunduru Naga Veeranjanyulu, who is one of the director of the company was dead. Therefore, the complainant filed a memo / application seeking amendment to the cause title to implead these petitioners as representative of the company / firm. Accordingly, the learned Magistrate allowed the applications. Then summons were issued to these petitioners, which is challenged before this Court.

11. Considering the entire documents and arguments of the learned counsel for the respondent, as per his contention, these petitioners also partners of the firm and directors of the company. Therefore, they are all liable for representing the company under Section 141 of the Negotiable Instrument Act.



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12. The submission of learned counsel for the complainant is correct and acceptable. However, whether those representative or other partners can be implemented without issuing notice to the representative, are the questions before this Court.

13. In my considered opinion, once the main accused who is responsible of the managing affairs, either managing partner or a director who is responsible for day to day affairs or managing partner of the firm was died during the intervening period of issuing cheque, when the complaint was filed, if the notice was already issued by the Trial Court, by taking cognizance against one of the accused as a representative of the company and without notice, if the person was died without issuing notice to the either legal heir or other representative or director of the company or other partners of the firm, the Court cannot implead them as additional accused or representative of the company / partner of the firm. It is well settled that



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the company is a legal entity, somebody has to represent the company, whereas all the partners are jointly called firm and individually called a partner. Such being the case, Magistrate required to ascertain by issuing notice the proposed accused and calling the objection and being heard, then the Trial Court could have passed the order by impleading the proposed accused or representative of the company or firm.

14. Such being the case, without issuance of notice, without giving an opportunity to oppose the application directly impleading them as party or representative of company / representative of firm, is not sustainable under the law. Therefore, the impugned order passed by the Magistrate in all theses cases are liable to be set aside for the sole purpose for giving an opportunity to oppose the application by hearing them, then proceed to pass the order in accordance with law. Accordingly, I proceed to pass following;



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ORDER

- I. All these petitions are allowed.
- II. The impugned order passed by the Magistrate for impleading the petitioners as accused, is hereby set-aside.
- III. The matters are remitted back to the Trial Court for giving an opportunity to the petitioners for filing objection.
- IV. The Trial Court is directed that after hearing the arguments, after ascertaining who is the managing director or responsible for the affairs of the company or managing partner of the firm, then proceed to pass the order by impleading them as accused by representing the company or firm, as the case may be.
- V. However, the party shall appear before the Trial Court on 28.10.2024, without expecting further notice from the Magistrate.

Sd/-
(K NATARAJAN)
JUDGE