IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1228 of 2023
and Crl.M.P.No.9600 of 2023

M/s.Vasan Health Care Private Limited,
Rep. by Meera Arun, Director,
1st Floor, New Door No.52, Old No.37A,
JJ Road, Teynampet,
Chennai. ... Petitioner

Vs.

Rishiklal Shah,
Rep. by Prakash Batt,
Power Agent. ... Respondent

PRAYER: Criminal Revision has been filed under Sections 397 & 401 of Cr.P.C., to set aside the orders dated 01.06.2023 made in C.M.P.No.6581 of 2022 in C.C.No.1782 of 2018, pending on the file of the learned Metropolitan Magistrate Fast Track Court No.IV, George Town, Chennai and quash the same.

For Petitioner : Ms. Shanmitha.S.

For Respondent : No appearance

ORDER

This Criminal Revision has been preferred as against the order dated 01.06.2023, passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, in C.M.P.No.6581 of 2022 in C.C.No.1782 of 2018, thereby allowing the petition filed by the respondent under Section 319 of Cr.P.C., to implead the petitioner as an accused in C.C.No.1782 of 2018 for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as "the NI Act").

2. The respondent filed complaint as against M/s.Vasan Health Care (P) Ltd., represented by one A.M.Arun, Managing Director, alleging that the said A.M.Arun borrowed loan in the name of M/s.Vasan Health Care (P) Ltd, for a sum of Rs.15,00,000/- and agreed to repay the same with interest at the rate of 24% per annum. Subsequently, he repaid a part amount of Rs.12,30,000/- and for the remaining amount along with interest, he issued cheque for a sum of Rs.4,64,400/- dated 23.04.2018. It was presented for collection and the same was returned dishonoured with an endorsement "REKYC await. Present again". Therefore, the respondent caused legal notice and lodged complaint as against M/s.Vasan Health Care (P) Ltd., represented by its Managing Director A.M.Arun. While pending the complaint, the said

A.M.Arun died. Therefore, the respondent filed petitions under Section 319 of Cr.P.C., to implead the petitioner as an accused on the ground that she is also one of the Director of M/s.Vasan Health Care (P) Ltd. The trial Court allowed the said petition, as against which the present revision.

3. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court. Though notice was served and name was also printed in the cause list, no one appeared on behalf of the respondents either by person or through pleader.

4. On perusal of records, it is revealed that the alleged cheque was issued by the said A.M.Arun from his personal account. However, the respondent lodged complaint as against M/s. Vasan Health Care (P) Ltd., represented by A.M.Arun, Managing Director alleging that the said A.M.Arun borrowed loan for a sum of Rs.15,00,000/-, in the name of M/s.Vasan Health Care (P) Ltd. Though he repaid partial amount, for the remaining amount he issued cheque in his personal capacity. The petitioner is also one of the Directors of M/s.Vasan Health Care (P) Ltd and she is the wife of the said A.M.Arun.

5. As stated supra, the cheque was issued in the name of A.M.Arun in his personal capacity from his personal account. Though the loan was borrowed on behalf of M/s.Vasan Health Care (P) Ltd., the cheque was issued in his individual capacity that too from his personal account. However, the respondent caused statutory notice as against M/s.Vasan Health Care (P) Ltd., represented by its Managing Director, A.M.Arun. The trial Court also had taken cognizance on the complaint and while pending the trial, the said A.M.Arun died. The petitioner, who is one of the Directors of M/s.Vasan Health Care (P) Ltd., now has been substituted in the place of A.M.Arun.

6. In the criminal case, if the complainant dies, he can be substituted by his legal heirs or by Directors, Partners etc. But if the accused dies, the charge itself gets abated and the accused cannot be substituted by his legal heirs or by Directors, Partners etc. In the case on hand, admittedly, the cheque was issued in the personal capacity of one A.M.Arun and also from his personal account. The trial Court ought to have taken cognizance as against A.M.Arun, since there was no cause of action that arose to take cognizance as against M/s.Vasan Health Care (P) Ltd. Though the respondent avert that the loan was borrowed on behalf of M/s.Vasan Health Care (P) Ltd., the cheque was not issued by M/s.Vasan Health Care (P) Ltd.

7. That apart, the petitioner was never issued with any notice and therefore, the trial Court ought not to have allowed the application filed under Section 319 of Cr.P.C., to implead the petitioner as accused, since there is absolutely no cause of action that arose to take cognizance as against the petitioner. Therefore, the impugned order cannot be sustained and is liable to be set aside.

8. In view of the above discussions, the impugned order dated 01.06.2023, passed by the learned Metropolitan Magistrate Fast Track Court No.IV, George Town, Chennai, in C.M.P.No.6581 of 2022 in C.C.No.1782 of 2018, is hereby set aside and the complaint in C.C.No.1782 of 2018 is dismissed as abated.

9. Accordingly, the Criminal Revision Case stands allowed. Consequently, connected miscellaneous petition is closed.

05.08.2025
(4/4)

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
rts

G.K.ILANTHIRAIYAN. J,

rts

To

1. The Metropolitan Magistrate,
Fast Track Court No.IV,
George Town, Chennai.

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