HC-KAR
NC: 2026:KHC:61390
CRL.P No. 2233 of 2021
CNR: KAHC010111302021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2233 OF 2021

BETWEEN:

MR. NAKKYUN CHONG
SON OF MR. YEONKU CHONG,
AGED ABOUT 58 YEARS,
OFFICE AT
M/S. GIFTIICON SOLUTIONS
PRIVATE LIMITED,
INDIQUBE TOWN HUB,
2ND FLOOR, 100 FEET ROAD,
INDIRANAGAR 1ST STAGE,
H. COLONY, INDIRANAGAR,
BANGALORE,
INDIA-560 038
PRESENTLY RESIDING AT
214 DANGSAN-RO,
SAMSUNG REMIAN APT. 409-2302,
YOUNGDONGPO-GU,
SEOUL, SOUTH KOREA-07200

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

REP. HEREIN BY HIS
POWER OF ATTORNEY HOLDER
MS. JI HYUN CHONG
DAUGHTER OF MR. NAKKYUN CHONG,
AGED ABOUT 27 YEARS,
RESIDENT OF NO. 20,
2ND FLOOR, DEVAKI KRISHNA,
1ST MAIN ROAD,
DEFENCE COLONY,
INDIRANAGAR,

CNR: KAHC010111302021

BANGALORE,
KARNATAKA,
INDIA-560 038

…PETITIONER

(BY SRI. MOHAMMAD SHAKEEB, ADVOCATE)

AND:

MR. M. RAVICHANDRAN
SON OF MR. MUNISWARA CHAR,
AGED ABOUT 51 YEARS,
RESIDING AT NO.178,
35TH MAIN, BDA LAND,
NANDINI LAYOUT,
BANGALORE-560 096

…RESPONDENT

(BY SRI K P BHUVAN, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE SUMMONS ISSUED THROUGH ORDER DATED 27.01.2021 (ANNEXURE-A), ORDER DATED 04.12.2020 TAKING COGNIZANCE OF THE COMPLAINT (ANNEXURE-B) AND ALL FURTHER PROCEEDINGS AS AGAINST THE PETITIONER IN C.C.NO.17243/2020 ON THE FILE OF HONOURABLE XXXVI ADDL.C.M.M., BENGALURU FOR THE OFFENCE P/U/S 138 OF N.I. ACT INITIATED BY THE RESPONDENT THROUGH THE COMPLAINT (ANNEXURE-C) AND ETC.

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

CNR: KAHC010111302021

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This petition is filed praying this Court to quash the summons issued through the order dated 27.01.2021; order dated 04.12.2020 taking cognizance of the complaint and all further proceedings against the petitioner in C.C.No.17243/2020.

2. Heard the learned counsel appearing for the respective parties.

3. The main argument of the counsel for the petitioner is that the present complaint is filed against the petitioner for the offence under Section 138 of N.I. Act but company is not made as a party to the said proceedings. The counsel appearing for the respondent would submit that this petitioner is also a co-founder of the company and hence, arraying the company as a party does not arise.

4. In view of the said submissions, this Court is of the opinion that in the absence of company arraying a party, there

cannot be any prosecution under Section 138 of N.I Act in view of the judgment of the Apex Court in the case of **ANEETA HADA v. GODFATHER TRAVELS AND TOURS (P) LTD.** reported in **(2012) 5 SCC 661,** wherein it is held that commission of offence by the company is a condition precedent to attract the vicarious liability of others. When the company has not been arraigned as a party, no proceedings can be initiated against it even where vicarious liability can be fastened and the complainant has failed to establish the essential requisite of making allegations against the accused persons to constitute the vicarious liability. In this regard, subsequent judgments were followed by the Apex Court as well as this Court. Under the circumstances, there cannot be any prosecution without arraying the company as a party to the proceedings.

5. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed.

The summons issued vide order dated 27.01.2021; order dated 04.12.2020 taking cognizance of the complaint and all further proceedings against the petitioner in C.C.No.17243/2020 is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

SN