HC-KAR
NC: 2026:KHC:59855
CRL.P No. 3222 of 2021
CNR: KAHC010165442021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.3222 OF 2021

BETWEEN:

1. MR. GAJANAN GAONKAR,
S/O SYROBA GAONKAR,
AGED ABOUT 45 YEARS,
SIGNATORY AND DIRECTOR OF
M/S. SUNBIO ORGANIC INDIA PVT. LTD.,
NO.4, SY.NO.177/1, NH 17, 5-8,
SHRISHTA, CANACONA,
GOA-403702.

…PETITIONER

(BY SMT. SUMAN HEGDE, ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. M/S. SHANKARA BUILDING PRODUCTS LTD.,
FORMERLY KNOWN AS
M/S. SHANKARA INFRASTRUCTURE MATERIALS LTD.,
REGD. OFFICE AT G-2, FARAH WINSFORD,
NO.133, INFANTRY ROAD,
BANGALORE-560001,
REP. BY ITS SR. OFFICER ACCOUNTS
AND PA HOLDER,
MR. N. SRINIVASA MURTHY,
S/O MR. A.R. NARAYANA,
AGED ABOUT 44 YEARS.

…RESPONDENT

(BY SRI. B. KESHAVA MURTHY, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ORDER OF THE COURT OF THE XI ADDITIONAL SESSIONS JUDGE AND XXXVI ACMM, BANGALORE (SCH-12) WHEREIN THE COURT HAS TAKEN COGNIZANCE AND ISSUED NBW IN C.C.NO.6/2018 FOR THE OFFENCE PUNISHABLE UNDER SECTION 138 OF N.I ACT AND ALSO QUASH THE PCR REGISTERED IN PCR.NO.50251/2017 REGISTERED ON THE COMPLAINT OF RESPONDENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 138 OF N.I ACT, PENDING ON THE FILE OF THE XI ADDITIONAL SESSIONS JUDGE, XXXVI ACMM, BANGALORE (SCH-12) AS ABUSE OF PROCESS OF LAW.

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

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

ORAL ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The present petition is filed by accused No.2 praying this Court to quash the proceedings initiated against him in taking the cognizance for the offence punishable under Section 138 of the Negotiable Instruments Act (‘NI Act’ for short).

3. The learned counsel for the petitioner would vehemently contend that this petitioner has not issued any cheque and the cheque was issued by accused No.1 and the

cheque is issued in the individual capacity and not in the capacity of this petitioner being a Director. The learned counsel in support of her argument relies upon the judgment of the Apex Court in the case of **P.J. AGRO TECH LIMITED AND OTHERS v. WATER BASE LIMITED** reported in **(2010) 12 SCC 146**, wherein the Apex Court discussed with regard to Sections 138 and 141 of the NI Act. Liability for dishonour of cheque issued by another but for dues of accused – dishonour of cheque issued on his personal account by employee of company to pay dues of company – vicarious liability of Directors or Company in case of, held, does not arise.

4. Per contra, the learned counsel for the respondent would submit that accused Nos.1 and 2 are the brothers and this petitioner/accused No.2 is also a Director and hence, proceedings is initiated against this petitioner also.

5. Having heard the learned counsel for the petitioner and the learned counsel for the respondent, it is not in dispute that this petitioner has not issued any cheque and cheque is issued by accused No.1 and even being the Director of the said company, the vicarious liability cannot be fixed on this

petitioner. When the learned counsel for the respondent also not disputes the fact that this petitioner has not issued the cheque, there cannot be any criminal prosecution, that too for the offence under Section 138 of the NI Act. The principles laid down in the judgment referred supra is aptly applicable to the case on hand and catena of judgments of the Supreme Court is also very clear that if cheque is not issued by the accused/petitioner, the question of invoking Section 138 of NI Act does not arise. Hence, the petitioner has made out the ground to quash the proceedings.

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

ORDER

The petition is allowed. The proceedings initiated against the petitioner/accused No.2 in C.C.No.6/2018 is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 32