HC-KAR
NC: 2026:KHC:63980
CRL.P No. 3596 of 2021
CNR: KAHC010181682021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.3596 OF 2021

BETWEEN:

SHRI. NAZIM
S/O NAZIRAHAMED LATIF
AGE: 33, OCCU: BUSINESS
R/O H.NO.2651
SECTOR NO.XII
OPP KHADI KUTIR
KIDS PARADISE LANE
MAHANTESH NAGAR
BELAGAVI-590016

...PETITIONER

(BY SRI. SANTOSH PUJARI, ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

DARAMIC BATTERY SEPERATOR
INDIA PVT. LTD.
GROUND FLOOR
PRAGATHI MAHALAKSHMI BUILDING
NO.62, NEW PID NO.11-51-62
1ST MAIN ROAD, 3RD CROSS
industrial suburb 2nd stage
YESWANTHPURA
BENGALURU-560022

...RESPONDENT

(BY SRI. RUDRAPPA P, ADVOCATE)

CNR: KAHC010181682021

This CRL.P is FILED U/S.482 of CR.P.C PRAYING TO QUASH C.C.NO.1044/2019, DATED 17.01.2020 FILED UNDER SEC.200 OF CRIMINAL PROCEDURE CODE, FOR THE OFFENCE P/U/S 138 OF THE N.I ACT PENDING ON THE FILE OF HONBLE XXVIII A.C.M.M., COURT AT BENGALURU VIDE ANNEXURE-A AND A1 and etc.

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

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

ORAL ORDER

This petition is filed praying this Court to quash the proceedings initiated in C.C.No.1044/2019 filed under Section 200 of Cr.P.C. for the offence under Section 138 of N.I.Act.

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

3. The proceeding is initiated under Section 200 of Cr.P.C. invoking Section 138 of N.I. Act and Trial Court recorded the sworn statement of the complainant and considered the documents at Ex.P1 to P11 i.e., Authorization Letter, Cheques, Bank Endorsement, Legal Notice, Postal

Receipt, Postal Acknowledgement, Tract consignment, copy of statement of account and original Tax Invoices. Having perused these documents, the Trial Court has taken the cognizance for the offence punishable under Section 138 of N.I.Act.

4. The contention of the learned counsel appearing for the petitioner before this Court is that cheque is not signed by the petitioner herein and the same is of Smt. Hamidabanu N Latif and the petitioner is neither the proprietor nor the partner of Kaizen Motocop and hence, claim is liable to be quashed. The counsel also would vehemently contend that respondent has not produced a single document to substantiate his claim that the petitioner is liable to pay single penny to it, per contra, the cheques in question bears the signature of Smt. Hamidabanu N Latif, which has been clearly depicted in the cheques in question, depicting the signature of H.N.Latif. Hence, the impugned proceedings against the petitioner is liable to be quashed. The counsel would submit that when the cheques were not issued by the petitioner, the question of initiation of proceedings does not arise.

5. Per contra, the counsel appearing for the respondent brought to notice of this Court the contents of the complaint wherein specific allegations are made that the petitioner is the proprietor of Kaizen Motocop and in paragraph 3 of the complaint, it is stated that complainant is running the aforesaid company in the aforesaid address. Accused being one of its customer, used to place the orders for supply of polyethyene (PE) Separator. Accordingly as per the orders of the accused, the complainant has supplied the said materials to the accused through invoices on credit basis since last 5 years and there is a outstanding balance of Rs.14,30,720/-. Towards the partial discharge of his aforesaid liability, accused had issued 5 cheques and cheques details and their dates are also mentioned. In the postal track consignment it is mentioned that notice has been served, but no reply was given. The counsel would submit that the defence that the signature found in the cheques is not belongs to him and the same belongs to his mother cannot be considered at this stage.

6. Having considered the contention of the learned counsel appearing for the respective parties and also on perusal

of the material on record, it discloses that the specific allegations are made that in view of supply of polyethylene, petitioner herein being a proprietor of the said company had issued the cheques. But the defence that it was the signature of his mother and not belongs to him. The same cannot be considered by the court when cognizance was taken. The specific averments are made in the complaint that notice was issued to the petitioner and as well as cheques were issued by the petitioner. Whether the signature belongs to the mother or the petitioner is a matter of trial and the same can be considered during the course of trial since no reply was given immediately setting the said defence. If signature is in dispute, the same also can be sent to the handwriting expert by the petitioner invoking Section 45 of Evidence Act. When the specific averments are made in the complaint that this petitioner only transacted with the complainant, the very defence cannot be considered at this stage and the Court has to take note of the material placed before the Court at the time of taking cognizance. The complainant was examined as CW1 and got marked the documents. Considering said documents, the

Trial Court taken cognizance. Hence, this Court cannot find fault with the cognizance order passed by the Trial Court when the offence invoked under Section 138 of N.I. Act since relevant documents are placed before the Court including the cheques and issuance of notice and even no reply was given. Under the circumstances, I do not find any grounds to entertain the petition under Section 482 of Cr.P.C.

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

ORDER

The petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

SN