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Crl.O.P.No.6588 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2026

CORAM:

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

Crl.O.P.No.6588 of 2023 and
Crl.MP.Nos.4120 & 4121 of 2023

Rekha Mehta

... Petitioner

Vs.

1.M/S.GEETHANJALI PAPERS AND BOARDS PRIVATE LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR, VINAY JAIN,
HAVING OFFICE AT NO.24/4, SUBBA STREET, CHOOLAI,
CHENNAI - 600 112.

2.M/S.THE BOX FACTORY,
REP BY ITS PARTNERS MRINAL MAHESH MEHTA AND REKHA
MEHTA, HAVING OFFICE AT NO.37, KMA GARDEN,
CHINNADIMADAM, KODUNGAIYUR BUS TERMINAL,
CHENNAI - 600 118.

3.MRINAL MAHESH MEHTA

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. to
Call for the records in respect of CC.No.1749 of 2021 which is pending
on the file of the Learned Metropolitan Magistrate, Fast Track-1
Allikulam at Egmore, Chennai and to quash the same.

For Petitioner : Mr.J.Ranjith Kumar

For Respondents

For R1 : Mr.G.Dilip Kumar
for Mr.Vikram U Jain

For R2 & 3 : No appearance



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ORDER

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This criminal original petition has been filed praying to quash the proceedings in CC.No.1749 of 2021 pending on the file of the Learned Metropolitan Magistrate, Fast Track-1 Allikulam at Egmore, Chennai.

2. There are totally three accused, in which petitioner is arrayed as A3. The first respondent herein filed complaint for the offence punishable under Section 138 of NI Act alleging that the first respondent is regularly supplying the goods to the accused and used to raise tax invoices. While being so, the accused were not regular in payment for the supply of goods in spite of the condition that the payment should be made within 30 days, failing which 21% would be charged on the overdue amount. During the course of business, the accused had purchased goods under several invoices from 11.06.2018 to 14.10.2019. Therefore, the accused were in due of Rs.32,06,099/- and Rs.31,79,709/- on 35 numbers of invoices on various dates. In order to discharge their partial liability, the accused issued cheque for a sum of Rs.31,79,709/-. It was presented for collection. However, it was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the first respondent



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initiated proceedings under Section 138 of NI Act. The trial court had taken cognizance in CC.No.1749 of 2021 and issued summons to the accused. The petitioner is arrayed as A3.

3. The learned counsel appearing for the petitioner would submit that though the petitioner is one of the partners, there is absolutely no specific averments in the complaint as against the petitioner. The second accused is the signatory to the cheque and he is the active partner of the first accused. That apart, the petitioner had joined as partner only on 29.08.2016. The petitioner not at all involved in the day to day activities of the business. In fact, she was not even aware of all the transactions between the first accused and the complainant. He further submits that the petitioner is not a signatory authority to the cheque and as such, she cannot be held liable for the offence punishable under Section 138 of NI Act.

4. The learned counsel appearing for the first respondent submits that the petitioner is one of the partners of the first accused and she is also an active partner of the first accused partnership firm. All the accused persons purchased materials and towards part payment, the accused issued cheque on behalf of the first accused signed by the second



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accused. Therefore, the petitioner also actively participated in the business and she is also liable to be punished under Section 138 of NI Act.

5. Heard, the learned counsel appearing for the petitioner and the first respondent and also perused all the materials available on record.

6. On perusal of records, it is revealed that there are totally three accused, in which the petitioner is arrayed as A3. She is one of the partners of the first accused. However, the petitioner is not an authorised signatory to any cheque. The first accused being a partnership firm, issued cheque signed by the second accused in favour of the first respondent herein. On perusal of the entire complaint, there is absolutely no specific allegation against the petitioner. Though the petitioner is one of the partners, the first respondent ought to have stated the specific allegations to implead all the partners of the first accused as accused. Mere statement that they are in charge of and responsible for conduct of the business of the partnership firm, without anything more, it is not fulfilling the requirement under Section 141 of NI Act. The primary responsibility of the first respondent is that to make necessary averments in the complaint so as to make the accused vicariously liable for fastening the criminal liability. There is no presumption that every partner knows



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about a transaction. Therefore, every partner cannot be automatically vicariously liable for the offence committed by the partnership firm. One such partners or partner who were in charge of or responsible to the partnership firm for the conduct of business of the partnership firm at the material time when the offence was committed alone shall be deemed to be guilty of the offence. Hence, there must be clear, unambiguous and specific allegations against the persons who are impleaded as accused that they were in charge of and responsible to the partnership firm in the conduct of its business in the material time when the offence was committed. Therefore, the petitioner cannot be punished for the offence under Section 138 of NI Act in the absence of specific allegation in the complaint that the petitioner was also in charge of and responsible for the first accused partnership firm in the conduct of the business at the relevant time or offence was committed with the petitioner's consent or connivance. Therefore, the petitioner cannot be held liable for the offence punishable under Section 138 of NI Act, when there is no specific averments or allegations made in the complaint against the petitioner.

7. In view of above discussion, the impugned proceedings cannot be sustained and the same is liable to be quashed against the petitioner alone. Accordingly, the entire proceedings in CC.No.1749 of
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2021 pending on the file of the Learned Metropolitan Magistrate, Fast Track-1 Allikulam at Egmore, Chennai is quashed in respect of the petitioner alone. The trial court is directed to proceed with the trial in respect of the other accused persons and complete the same within a period of six months from the date of receipt of this order.

8. With the above direction, this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

06.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Chennai

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G.K.ILANTHIRAIYAN, J.

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