



Crl.O.P.No.7181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2026

CORAM:

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

Crl.O.P.No.7181 of 2023 and
Crl.MP.Nos.4527 & 4528 of 2023

Bharath Vasan

... Petitioner

Vs.

1.A.VIDHYA SAGAR

2.M/S. VSB ENGINEERING PVT. LTD.,

NO.181, NORTH USMAN ROAD, T.NAGAR, CHENNAI - 600 017.

3.R. VASAN

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for records in C.C.No.303 of 2022 on the file of Judicial Magistrate, Fast Track Court, Alandur and quash the Criminal Proceedings.

For Petitioner : Mr.P.Vijendran
for Mr.A.Sukumar

For Respondents : No appearance

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.303 of 2022 on the file of Judicial Magistrate,



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Fast Track Court, Alandur

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2. The petitioner is arrayed as A3 in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act alleging that the first accused is the company and the second and third accused are the Directors of the first accused company. The second accused had borrowed a sum of Rs.75,00,000/- from the respondent in the year 2018 to invest in the industry run by the third accused at Australia. The second accused also assured that the amount will be repaid by monthly equated instalments at Rs.3,75,000/- for a period of 20 months and the remaining sum of Rs.50,00,000/- per annum towards the profit and also allotment of 25% share in the company. Accordingly, the second accused issued cheques for a sum of Rs.3,75,000/- each to the respondent. However, the second respondent failed to honour the same. Finally the second accused issued two cheques dated 28.02.2020 and 16.03.2020 respectively. Both the cheques were presented for collection and both were returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent initiated proceedings under Section 138 of NI Act. The same was taken cognizance by the trial court.

3. The learned counsel for the petitioner would submit that the



petitioner is arrayed as A3. Mere the third accused being a Director of the first accused company, he has been implicated as an accused. Admittedly the second accused borrowed loan amount and issued cheques without knowledge and consent of the third accused. That apart, there is absolutely no allegation against the third accused for committing the offence under Section 138 of NI Act. Therefore, the complaint itself is liable to be quashed against the petitioner. In view of the interim order granted by this court, the trial court proceeded with the trial against A1 and A2. Now the case has been posted for judgment on 18.03.2026.

4. Heard, the learned counsel for the petitioner and perused all the materials placed before this Court. Though notice was served on the respondents and their names have been printed in the cause list, no one appeared before this Court either by person or through pleader.

5. On perusal of the complaint and the statutory notice issued by the first respondent, it is revealed that the entire allegations are against the first and second accused. The second accused borrowed loan in the name of the first accused from the respondent herein. The second accused is the cheque signing authority and issued cheques on behalf of the first accused. Further, in the complaint, there is absolutely no specific

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avermment to the extent that the third accused was also actively participating in the day to day affairs of the first accused company and he had knowledge about the borrowal of the amount or the issuance of the cheques on behalf of the first accused by the second accused.

6. Though the petitioner is one of the Directors, the first respondent ought to have stated the specific allegations to implead all the Directors of the first accused as accused. Mere statement that they are in charge of and responsible for conduct of the business, 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 director knows about a transaction. Therefore, every director cannot be automatically vicariously liable for the offence committed by the company. One such directors or director who were in charge of or responsible to the company for the conduct of business of the company 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



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company 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 company 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. Further, the respondent must have averred the specific overt act against the petitioner about his day to day involvement in the affairs of the first accused company and specific role played by him while borrowal of loan and also issuance of cheque. Therefore, no offence is made out against the petitioner. As such, the entire proceedings in C.C.No.303 of 2022 on the file of Judicial Magistrate, Fast Track Court, Alandur, is quashed in respect of the petitioner alone. The trial court is directed to pronounce judgment in respect of the other accused persons in accordance with law.



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

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
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Judicial Magistrate, Fast Track Court, Alandur



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G.K.ILANTHIRAIYAN, J.

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