



CRL.P No. 100639 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 4TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 100639 OF 2022

BETWEEN:

1. SMT. SUNITA

2. SMT. VIDYA

...PETITIONERS

(BY SRI. CHETAN MUNNOLI, ADVOCATE)

AND:

MALIKJAN

...RESPONDENT

(BY SRI SHRIHARSH NEELOPANT, ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
SEEKING TO QUASH THE ENTIRE PROCEEDING IN CC
NO.1339/2020 PENDING ON FILE OF THE CIVIL JUDGE AND JMFC,

Digitally signed
by SAMREEN
AYUB DESHNUR
Location: HIGH
COURT OF
KARNATAKA,
DHARWAD
BENCH,
DHARWAD.



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MUDALAGI REGISTERED FOR THE OFFENCE PUNISHABLE U/S 138 OF N.I. ACT IN SO FAR IT RELATES TO ACCUSED NO.5 AND 6 I.E., PETITIONERS.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

A private complaint is filed under Section 200 of the Code of Criminal Procedure, 1973 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'), alleging that the cheque, which was issued by the Company in favour of the complainant, when presented for realisation was dishonoured for want of funds. The learned Magistrate, after recording the sworn statement of the complainant, took cognizance of the offence punishable under Section 138 of the Act and issued summons to the accused. Taking exception to the same, the petitioners-accused Nos.5 and 6 are before this Court.

2. The learned counsel appearing for the petitioners submits that the petitioners-accused Nos.5 and 6 ceased to be the Directors of the Company with effect



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from 22.03.2017, which is evident from Form No.DIR-12. Hence, he submits that the registration of the complaint against the petitioners-accused Nos.5 and 6 is not sustainable in law.

3. learned counsel appearing for the respondent/complainant submits that the petitioner/accused were directors on the date when the complainant invested the money with the petitioner/accused company and cheque which was issued by the company was for repaying of amount invested by the respondent/complaint and hence learned Magistrate has rightly taken cognizance and same does not warrant any interference.

4. The respondent-complainant though served with the notice has remained absence.

5. I have considered the submissions made by the learned counsel for the petitioners.



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6. The cheque in question was issued on 01.08.2019. The petitioners, who were the Directors of the Company, ceased to be the Directors of the Company with effect from 22.03.2017 which is evident from the Form No.DIR-12 issued by Registrar of the Companies and the same has remained uncontroverted. Hence, it implies that the petitioners ceased to be the Directors of the Companies as on the date of issuance of the cheque. Hence, registration of the complaint against the petitioners for the offence punishable under Section 138 of the Act is not sustainable. Accordingly, I pass the following:

ORDER

The criminal petition is allowed. The impugned proceeding in C.C. No.1339/2020 pending on the file of the Civil Judge and JMFC, Mudalagi, insofar as it relates to petitioners-accused Nos.5 and 6 is hereby quashed.

**SD/-
JUDGE**

AC