

IN THE COURT OF METROPOLITAN MAGISTRATE,
44TH COURT, ANDHERI, MUMBAI.

C.C.No.63/SS/2020

Sanjay Harichand Mutreja Vs Orbit Ventures Developers and Ors.,

ORDER PASSED ON EXH.NO.06

(Passed on 15/06/2024)

The accused No.3 has filed this application for discharging him from this case on the ground that he is neither signatory to the disputed cheque nor he is partner of the accused no.1 firm. The another ground raised for discharging him is that the complainant filed this case to harass him.

2. Per contra, the complainant strongly opposed the applications on the ground that the order regarding the issuance of summons cannot be recalled by this Court and this application is not tenable in the law. It is the stand of the complainant that the accused no.3 is jointly and severely liable for the offence punishable under section 138 of the Negotiable Instruments Act.

3. Having heard the learned advocates for both the side, I perused the record.

4. At the outset, it is pertinent to note here that this Court is not empowered to review its own order regarding the issuance of summons. In this regard, I am guided by the ratio laid down by the Hon'ble Supreme Court in the case of **Adalat Prasad Vs Rupal Jindal and Ors., reported in AIR 2004 SC 4674** wherein the Hon'ble Apex

Court held that recalling of order of issuance of summons cannot be made by the Magistrate since review of such order is not maintainable. In such circumstances, this court is of humble opinion that the present application filed on hand is not tenable. Hence, I pass the following order:

ORDER

The application filed at Exh.No.6 stands rejected.

Sd/-

(Sujitkumar C. Tayde)
Metropolitan Magistrate,
44th Court, Andheri, Mumbai.

Date :- 15/06/2024