

M/S FUSION INDUSTRIES LTD. Vs M/S FUSION WORLD
BHUBANESHWAR

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Present : Sh. Ashish Arora, , counsel for the complainant.
Sh. Ajit Singh, Advocate for accused. No.2 .

ORDER:

This order shall dispose of an application filed by the applicant/accused No.2 seeking cancellation of non-bailable warrants dated 07.11.2024 issued against the accused No.2 and discharge from the present proceedings.

2. The brief facts of the present application are that in the present case non-bailable warrants has been issued against the accused No. 2 on 07.11.2024. It is further stated that the applicant is not a person in control of the affairs of the accused No.1 company and has been wrongly arrayed in the memo of parties. It is further stated that the applicant is neither a signatory of the cheque and nor a key managerial person of the accused No.1 proprietorship. Hence, the inclusion of applicant/accused No. 2 as a accused in the memo of parties is bad in law and against the interest of justice. Therefore, the present application is filed with the prayer for cancellation of

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non-bailable warrants issued against the applicant/accused No. 2 and to discharge the applicant/accused No.2.

3. No reply to the present application has been filed by the complainant/respondent. Learned counsel for the complainant/respondent stated before the Court that he wants to argue straightaway in the present application.

4. I have heard both the parties, and have gone through the case file very minutely.

5. The learned counsel for the applicant/accused No.2 has submitted before the court that applicant/accused No.2 is merely an employee and is neither proprietor nor responsible for the conduct of the business of accused No.1. It is further argued that the burden to establish that the applicant/accused No.2 is proprietor lies upon the complainant/respondent and the applicant/accused No.2 cannot be called upon to prove that he is not a proprietor.

6. Per contra, the learned counsel for the respondent/complainant has argued that the present application is not maintainable as the applicant/accused No.2, in

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substance, seeks reconsideration of the order whereby cognizance was taken by this Court and the applicant/accused No.2 was summoned as an accused. It is further argued that the applicant/accused No.2 was well aware of the pendency of the proceedings and failed to appear before the Court, consequently, resulting in issuance of non-bailable warrants against him. It is further submitted that the applicant/accused No.2 has not placed on record any document to substantiate his assertion that he is not the proprietor/person responsible for the affairs of accused No.1.

7. The principle issue which arises for consideration is whether this court, at this stage, can reconsider the order whereby cognizance was taken and the applicant/accused No.2 was summoned as an accused.

8. It is a settled principle of criminal jurisprudence that a Magistrate has no power to review or recall of its own order taking cognizance and issuing process against the accused. Once cognizance has been taken and process has been issued, the same Court cannot sit in appeal over its own order

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and reconsider the correctness of the order of cognizance on the basis of an application filed by the accused.

9. In the present case, the applicant/accused No.2 seeks to contend that he has been wrongly arrayed as an accused as he is neither the proprietor nor responsible in the affairs of the accused No.1. The plea of the applicant/accused No.2 regarding his status as an employee and not being the proprietor of accused No.1 is essentially a matter touching upon the merits and his liability in the proceedings. The same cannot be adjudicated in the present application by indirectly reviewing the order of cognizance.

10. Thus, this court finds that the present application, insofar as it seeks reconsideration of the applicants arraignment and discharge on the ground the he has been wrongly arrayed as an accused is not maintainable before this Court as it would amount to reviewing/recalling its own order of cognizance, for which this Court has no jurisdiction. Accordingly, the present application is hereby **dismissed.**

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11. **This order shall not affects the merits of the present case.** Now, to come up on **21.09.2026** for further proceedings.

Dated: 11.08.2026
Isha

(Anchal)
Judicial Magistrate First Class,
Faridabad/UID No. HR-0769

Note: This order contains five pages and each page has been checked and signed by me.

(Anchal)
Judicial Magistrate First Class,
Faridabad/UID No. HR-0769

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