

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 9842 of 2022

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RAMESHBHAI REVABHAI PATEL & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MS FORAM U TRIVEDI(10039) for the Applicant(s) No. 1,2,3

MR. HARDIK P BAROT(6798) for the Respondent(s) No. 2

MR JAY MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 09/04/2024

ORAL ORDER

1. By this application, the applicants - original accused seek to quashing of Criminal Case No.2435 of 2021, filed by the second respondent for the alleged offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. This Court has heard learned counsels Mr.Mehul Sarad Shah, Mr.Hardik Barot and learned APP Mr.Jay Mehta for the respective parties.

3. Mr.Mehul Shah, learned advocate appearing for and on behalf of the applicants, who have been impleaded as accused in the aforesaid private complaint for the offence punishable under Section 138 of the N.I. Act, has submitted that the applicants have been falsely, without verifying their functions and liabilities in the company, impleaded as accused. Relying

on the case of Sunita Palita Vs. M/s.Panchami Stone Quarry, (2022 (3) Crimes 189 Supreme Court), he contended that the impleadment of all Directors of the company on the basis of statement that they are in charge of and/or responsible for the conduct of the business of the company without anything more does not fulfill the requirement of Section 141 of the N.I. Act. Thus, therefore, he would urge that the Trial Court, in a mechanical manner, issued a summons upon the applicants.

4. Mr.Shah, would further urge that considering the pleadings as well as role attributed to present applicant herein, the private complaint which is subject matter of this application does not disclose the essential ingredients of an offence which is alleged against the applicants and therefore, while issuing summons, the Court has not exercised its discretion in accordance with law and thus, therefore, the proceedings against the applicants deserves to be quashed.

5. On the other hand, Mr.Hardik Barot, learned counsel appearing for the original complainant, upon instructions, fairly conceded that, the Court may quash the criminal proceedings of the complaint filed against the applicants without entering into merits of the case.

6. Having regard to the peculiar facts and circumstances of

present case, and having considered the provisions of the N.I. Act, without entering into merits of the case, the proceedings of criminal case i.e. C.C. No.2435 of 2021 pending on the file of the Court of Judicial Magistrate at Kalol, Dist.: Gandhinagar qua the applicants is quashed.

7. Accordingly, the application in the aforesaid terms is **allowed**. The Trial Court shall proceed with the matter on its own merits, in accordance with law, and shall not get influenced by this order during the course of trial. Interim relief stands vacated.

Rakesh

(ILESH J. VORA,J)