

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION NO. 8986 of 2020

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ANJALI ANILKUMAR SHAH
Versus
STATE OF GUJARAT

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Appearance:

AMBIKA A SHARMA(8856) for the Applicant(s) No. 1

MR ANKIT SHAH(6371) for the Applicant(s) No. 1
for the Respondent(s) No. 2

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

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CORAM: **HONOURABLE MR. JUSTICE B.N. KARIA**

Date : 06/01/2021

ORAL ORDER

By way of present application, applicant has prayed to quash and set aside the complaint being Criminal case No. 17106 of 2019 registered with learned Metropolitan Magistrate, Ahmdabad for the offence under Section 138 of the Negotiable Instruments Act as well as process/summons issued therein against the applicant and further prayed to stay the further proceedings of the complaint being Criminal Case No. 17106 of 2019 till final disposal of this application.

Heard learned advocate for the applicant.

It was submitted by learned advocate for the applicant that after the death of the father of the applicant, respondent no.2~ original complainant, as and by way of an afterthought and in

order to harass the present applicant, presented a cheque bearing No. 000087 dated 25.09.2019 drawn on Bank of Baroda, Panchkuva Branch, Ahmedabad which might be lying with the complainant. That, the disputed cheque is not at all signed by the present applicant, but the same might have been signed by the deceased father of the applicant. Under such circumstances, only because the applicant is the joint holder of the said account, it cannot be said that there is any legally enforceable debt against the present applicant under the provisions of the Negotiable Instruments Act. In support of his arguments, learned advocate for the applicant has placed reliance on the judgment of Hon'ble Apex Court passed in case of "Mrs Aparna A. Shah v. M/s. Sheth Developers Private Limited and Anr." in Criminal Appeal No. 813 of 2013 wherein it is held that in case of issuance of cheque from joint accounts, a joint account holder cannot be prosecuted unless the cheque has been signed by each and every person who is a joint account holder. That, applicant is ready and willing to settle the issue pending with the respondent no.2.

Issue requires consideration.

Rule returnable on 17th February 2021. Learned APP waives service of notice of rule for and on behalf of the respondent-State.

The proceedings of Criminal Case No. 17106 of 2019

pending before the court of learned Metropolitan Magistrate, Ahmedabad shall be stayed till the next date of hearing.

Registry is directed to send a copy of this order to the court of learned Metropolitan Magistrate, Ahmedabad by Fax or Email forthwith.

K. S. DARJI

(B.N. KARIA, J)