[3257]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE THIRD DAY OF FEBRUARY

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

IA No. 1 OF 2025

IN

CRLP NO: 1486 OF 2025

Between:

Karthik Iyer Parasuraman @ P.K.Iyer S/o Parasuraman

...Petitioner

(Petitioner in CRLP 1486 OF 2025
on the file of High Court)

AND

1. Kotak Mahindra Bank Limited., Regd. Office at 36-38A, Nariman Bhavan, 227, Nariman Point, Mumbai-400021, Having its Branch office at. 6-3-1109/1/P202, Raj Bhavan Road, Somajiguda, Hyderabad-500082 Rep. by its Authorised Signatory
2. The State of Telangana, Rep by its Public Prosecutor, High Court at Hyderabad

...Respondents

(Respondents in-do-)

Counsel for the Petitioner : SRI S. RAM REDDY

Counsel for the Respondent No.2 : SRI JITHENDER RAO VEERAMALLA, Additional Public Prosecutor

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the memorandum of grounds filed along with Criminal petition, the High Court may be pleased to stay all further proceedings in C.C.No.1035/2022 on the file of XI Metropolitan Magistrate, at Manoranjan Complex, Hyderabad including the appearance of the petitioner/A4 pending disposal of CRLP No. 1486 of 2025, on the file of the High Court.

The Court made the following

ORDER

This application is filed by the petitioner/ accused No.4 seeking to grant stay of all further proceedings including his appearance in C.C.No.1035 of 2022 on the file of XI Metropolitan Magistrate at Manoranjan Complex, Hyderabad.

Heard Sri S.Ram Reddy, learned counsel for the petitioner and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondent-State.

Learned counsel for petitioner submits that accused No.1 is a Company. The allegation against the petitioner/ accused No.4 is that he is the Director of accused No.1-Company and involved in its day-to-day activities.

Learned counsel for petitioner further submits that on the request of accused No.1-Company, the Complainant-Bank has sanctioned a loan of Rs.50 Crores. In respect of said outstanding amount, the accused issued a cheque bearing No.063336, dated 11.01.2013. When the said cheque was presented for realization with the Bank, the same was returned with an endorsement 'funds insufficient'. Since the cheque was returned unpaid, the complainant Bank issued legal notices. Inspite of receiving the said notices, the accused failed to pay the outstanding amount.

Learned counsel for petitioner further submits that the petitioner was not involved in the day-to-day financial affairs of the business, except on the expansion of the business and the subject cheque was not signed by the petitioner. He further submits that there is no documentary evidence to show that the petitioner was involved in the day-to-day affairs of the business and *prima facie,* the offence against the petitioner is not made out. He further submitted that merely being a Director to the Company is not sufficient to make the petitioner liable

under Section 141 of the Act, unless his specific involvement is clear on the face of the record to hold him vicariously liable.

In support of his contention, learned counsel for petitioner relied on the judgment of the Hon'ble Supreme Court in *S.M.S. Pharmaceuticals v.Neeta Bhalla and another*[1] and drawn attention of this Court to paragraph No.16, wherein, it is held as follows:

> *"16. Section 141 of the Act does not say that a Director of a Company shall automatically be vicariously liable for commission of an offence on behalf of the Company. What is necessary is that sufficient averments should be made to show that the person who is sought to be proceeded against on the premise of his being vicariously liable for commission of an offence by the Company must be in charge and shall also be responsible to the Company for the conduct of its business."*

On a perusal of the complaint, it appears that the petitioner is Director of the Company. However, there is no averment as to how and in what manner he was responsible for day-to-day affairs of the Company. Further, the petitioner is not the signatory to the cheque. In the said circumstances and in view of the aforesaid judgment, there shall be stay of all further proceedings against the petitioner/accused No.4, including his appearance, in C.C.No.1035 of 2022 on the file of XI Metropolitan Magistrate at Manoranjan Complex, Hyderabad, till 05.03.2025.

SD/-L.VIJAYA LAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

[1] (2007) 4 SCC 70

To,

1. The XI Metropolitan Magistrate at Manoranjan Complex, Hyderabad
2. The Station House Officer, Panjagutta Police Station, Hyderabad
3. The Authorised Signatory, Kotak Mahindra Bank Limited., Regd. Office at 36-38A, Nariman Bhavan, 227, Nariman Point, Mumbai-400021, Having its Branch office at. 6-3-1109/1/P202, Raj Bhavan Road, Somajiguda, Hyderabad-500082 (By RPAD)
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
5. One CC to SRI S. RAM REDDY Advocate [OPUC]
6. One spare copy

HIGH COURT

JS,J

DATED:03/02/2025

ORDER

IA No.1 of 2025
In
CRLP.No.1486 of 2025

STAY