



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 19TH DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO.100988 OF 2024 C/W
CRIMINAL PETITION NOS.100981, 100982, 100984,
100985, 100986, & 100987 OF 2024
(482 (CR.P.C.)/528 (BNSS))

IN CRL.P. NO. 100988 OF 2024:

BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
TQ. AND DIST. BALLARI-583 001.

... PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

1. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS DIRECTOR,
HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
NO.71, 3RD CROSS, RESIDENCY ROAD,
BENGALURU-560 025.
2. M/S. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,

RAKESH
S
HARIHAR

Digitally signed
by RAKESH S
HARIHAR
Location: HIGH
COURT OF
KARNATAKA
DHARWAD
BENCH



TQ. AND DIST. BALLARI.

3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).
5. SHRI SURESH KUMAR BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.
6. SHRI ROOPSING NOORSING CHAWHAN
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
BENGALURU-560 078.

... RESPONDENTS

(BY SRI. A. VEERANNA, ADVOCATE FOR R3;
SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;
R5-ABATED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE IMPUGNED ORDER DATED 30.10.2023 PASSED BY LEARNED II ADDITIONAL DISTRICT AND SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.131/2022 AND CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021 PASSED BY THE LEARNED V ADDITIONAL CIVIL JUDGE AND JMFC, AT BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1095/2015.

IN CRL.P. NO. 100981 OF 2024:



BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
TQ. AND DIST. BALLARI-583 001.

... PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

1. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS DIRECTOR,
HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
NO.71, 3RD CROSS, RESIDENCY ROAD,
BENGALURU-560 025.
2. M/S. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.
3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).



5. SHRI SURESH KUMAR BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.

6. SHRI ROOPSING NOORSING CHAWHAN
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
BENGALURU-560 078.

... RESPONDENTS

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SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;
R5-ABATED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF
CR.P.C., PRAYING TO QUASH THE IMPUGNED ORDER DATED
30.10.2023 PASSED BY LEARNED II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.130/2022 AND
CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021
PASSED BY THE LEARNED V ADDITIONAL CIVIL JUDGE AND JMFC,
AT BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE
PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1098/2015.

IN CRL.P. NO. 100982 OF 2024:

BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
TQ. AND DIST. BALLARI-583 001.

... PETITIONER



(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

1. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS DIRECTOR,
HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
NO.71, 3RD CROSS, RESIDENCY ROAD,
BENGALURU-560 025.
2. M/S. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.
3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).
5. SHRI SURESH KUMAR BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.
6. SHRI ROOPSING NOORSING CHAWHAN
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
BENGALURU-560 078.

... RESPONDENTS

(BY SRI. A. VEERANNA, ADVOCATE FOR R3;
SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;



NC: 2025:KHC-D:10470
CRL.P. No.100988 of 2024
C/W CRL.P Nos.100981, 100982, 100984
100985, 100986, and 100987 of 2024

R4-NOTICE DISPENSED WITH;
R5-ABATED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE IMPUGNED ORDER DATED 30.10.2023 PASSED BY LEARNED II ADDITIONAL DISTRICT AND SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.133/2022 AND CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021 PASSED BY THE LEARNED V ADDITIONAL CIVIL JUDGE AND JMFC, AT BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1096/2015.

IN CRL.P. NO. 100984 OF 2024:

BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
TQ. AND DIST. BALLARI-583 001.

... PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

1. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS DIRECTOR,
HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
NO.71, 3RD CROSS, RESIDENCY ROAD,
BENGALURU-560 025.
2. M/S. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.



3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).
5. SHRI SURESH KUMAR BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.
6. SHRI ROOPSING NOORSING CHAWHAN
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
BENGALURU-560 078.

... RESPONDENTS

(BY SRI. A. VEERANNA, ADVOCATE FOR R3;
SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;
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CR.P.C., PRAYING TO QUASH THE IMPUGNED ORDER DATED
30.10.2023 PASSED BY LEARNED II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.134/2022 AND
CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021
PASSED BY THE LEARNED V ADDL. CIVIL JUDGE AND JMFC, AT
BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE
PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1099/2015.

IN CRL.P. NO. 100985 OF 2024:

BETWEEN:



AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
TQ. AND DIST. BALLARI-583 001.

... PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

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HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
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2. M/S. BENAKA SPONGE IRON PVT. LTD.,
R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.
3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
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GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).
5. SHRI SURESH KUMAR BHUWALKA,



AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.

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AGE. MAJOR, OCC. DIRECTOR,
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... RESPONDENTS

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SMT. RANJITA ALAGAWADI, ADVOCATE FOR
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R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;
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SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.135/2022 AND
CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021
PASSED BY THE LEARNED V ADDL. CIVIL JUDGE AND JMFC, AT
BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE
PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1101/2015.

IN CRL. P. NO. 100986 OF 2024:

BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
INFERTY ROAD, INNA REDDY COLONY,
CANTONMENT, BALLARI-583 104,
R/BY ITS AUTHORIZED SIGNATORY,
SHRI NIRANJAN O/O INNA REDDY COLONY,
CANTONMENT, BALLARI,
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... PETITIONER

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AND:

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R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.
3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063,
(MAHARASHTRA).
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5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.
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AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
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... RESPONDENTS

(BY SRI. A. VEERANNA, ADVOCATE FOR R3;
SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;



R5-ABATED)

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IN CRL.P. NO. 100987 OF 2024:

BETWEEN:

AGARWAL COAL CORPORATION PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS OFFICE AT GROUND FLOOR,
PLOT NO.9, OFFICE NO.1,
SAI LAXMI NARASIMHA SWAMY NILAYAM,
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... PETITIONER

(BY SRI. SHIVRAJ S. BALLOLI, ADVOCATE)

AND:

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HAVING REGISTERED OFFICE AT BHUVAKA CENTER,
NO.71, 3RD CROSS, RESIDENCY ROAD,
BENGALURU-560 025.
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R/BY ITS AUTHORIZED SIGNATORY,
HAVING ITS FACTORY PREMISES
AT SY. NO.139-A/1,
TUMATI ROAD, BELLAGAL VILLAGE,
TQ. AND DIST. BALLARI.



NC: 2025:KHC-D:10470
CRL.P. No.100988 of 2024
C/W CRL.P Nos.100981, 100982, 100984
100985, 100986, and 100987 of 2024

3. SHRI AJAY KUMAR BHUWALKA,
AGE. MAJOR, OCC. MANAGING DIRECTOR,
R/O. #2996, 5TH CROSS, NEAR INDIRA NAGAR,
BENGALURU NORTH, BENGALURU-560 038.
4. SHRI ANKIT BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. FLAT NO.A-805, 8TH FLOOR,
OBERAI WOODS, MOHAN GOKHLE ROAD,
GOREGAON EAST, MUMBAI-400 063, (MAHARASHTRA).
5. SHRI SURESH KUMAR BHUWALKA,
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.2996, 12TH A MAIN,
5TH CROSS, HAL II STAGE,
INDIRA NAGAR, BENGALURU-560 038.
6. SHRI ROOPSING NOORSING CHAWHAN
AGE. MAJOR, OCC. DIRECTOR,
R/O. NO.453, 4TH MAIN, 6TH CROSS,
J.P. NAGAR, 3RD PHASE,
BENGALURU-560 078.

... RESPONDENTS

(BY SRI. A. VEERANNA, ADVOCATE FOR R3;
SMT. RANJITA ALAGAWADI, ADVOCATE FOR
SRI. GANGADHAR J.M. ADVOCATE FOR R6;
R1 AND R2-SERVED;
R4-NOTICE DISPENSED WITH;
R5-ABATED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF
CR.P.C., PRAYING TO QUASH THE IMPUGNED ORDER DATED
30.10.2023 PASSED BY LEARNED II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT BALLARI IN CRL.R.P. NO.136/2022 AND
CONSEQUENTLY QUASH THE IMPUGNED ORDER DATED 29.07.2021
PASSED BY THE LEARNED V ADDL. CIVIL JUDGE AND JMFC, AT
BALLARI ON INTERLOCUTORY APPLICATION FILED BY THE
PETITIONER UNDER SECTION 141 OF N.I. ACT IN CC NO.1100/2015.

THESE PETITIONS ARE COMING ON FOR ADMISSION THIS
DAY, ORDER IS MADE THEREIN AS UNDER:



COMMON ORDER

(PER: THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

1. Above captioned seven petitions arise between the same parties and therefore they are heard together with the consent of the learned counsel appearing for the parties and disposed of by this common order.

2. Heard the learned counsel appearing for the parties.

3. The petitioner company had initiated seven separate proceedings before the Court of V Addl. Civil Judge & JMFC, Ballari against accused Nos.1 and 2 companies for the offence punishable under Section 138 of N.I. Act. The allegation against the accused companies is that cheques issued by the said companies towards repayment of the amount due by the companies to the petitioner company for supply of coal were dishonoured and in spite of statutory notices issued to accused Nos.1 and 2 companies, amount covered under cheques in question was not repaid and therefore seven separate criminal cases were filed against accused Nos.1 and 2 companies for the offence punishable under Section 138 of N.I. Act. In the said



seven criminal cases registered before the Court of Magistrate in C.C.No.1098/2015, C.C.No.1096/2015, C.C.No.1099/2015, C.C.No.1101/2015, C.C.No.1097/2015, C.C.No.1100/2015, C.C.No.1095/2015 separate applications were filed under Section 141 of N.I. Act by the petitioner company with a prayer to implead respondent Nos.3 to 6 as parties to the criminal proceedings initiated against accused Nos.1 and 2 companies. The said applications were opposed by the propose respondents by filing objections and the trial Court vide the order impugned dated 29.07.2021 dismissed the applications, which were unsuccessfully challenged in Criminal Revision Petition No.130/2022, Criminal Revision Petition No.131/2022, Criminal Revision Petition No.132/2022, Criminal Revision Petition No.133/2022, Criminal Revision Petition No.134/2022, Criminal Revision Petition No.135/2022 and Criminal Revision Petition No.136/2022 before the Court of II Addl. District and Sessions Judge, Ballari. It is under these circumstances, the above captioned seven criminal petitions are filed before this Court.

4. Learned counsel for the petitioner submits that respondent No.3 is the authorized signatory of the companies



and he is the sole signatory to the cheques in question, which were dishonoured by the drawee bank. Therefore, relief sought for in the applications filed under Section 141 of N.I. Act would be restricted by the petitioner only as against respondent No.3. Insofar as other respondents who are the directors of the companies are concerned petitions are not pressed as against them.

5. *Per contra*, learned counsel appearing for respondent No.3 submits that, no separate notice was issued to respondent No.3 and therefore he cannot be prosecuted for the alleged offence. Respondent No.3 is not the drawee of the cheque in question and he has signed the cheques only as authorized signatory of the companies. The companies are already arrayed as accused in the criminal proceedings and therefore presence of respondent No.3 is not necessary. Accordingly, he prays to dismiss the petitions as against respondent No.3.

6. It is not in dispute that respondent No.3, is the sole signatory to the cheques in question, which were issued on behalf of accused Nos.1 and 2 companies in favour of the



petitioner. Primary liability under Section 138 of N.I. Act is on the drawer, who must ensure maintaining adequate funds in the bank account on which the cheques in question are drawn at the time the cheques are presented.

7. Section 141 of the N.I. Act provides for criminal liability for dishonour of cheque committed by company. In the case of **K.K.AHUJA AND V.K.VORA AND ANOTHER – (2009) 10 SCC 48**, the Hon'ble Supreme Court after referring to the judgment of **SMS PHARMACEUTICALS V. NEETA BHALLA & ANR – 2005 (8) SCC 89** has observed that signatory of a cheque which is dishonoured is clearly responsible for the act and his liability is covered under Section 141(2) of N.I. Act. Therefore, no specific averments would be necessary to make him liable to be prosecuted for offence under Section 138 of N.I. Act. Similarly Managing Director and Deputy Managing Director by virtue of their office which they holding would come under Section 141(1) of N.I. Act even if there is no specific averments against them. Insofar as the other directors are concerned there has to be specific averments as against them in the complaint with regard to



their role and responsibility in the conduct of business of the company and in the absence of such allegation or averments the other directors cannot be prosecuted for the alleged offences. In the case on hand, learned counsel for the petitioner has fairly submitted that insofar as respondent Nos.4 to 6 are concerned, who are the other directors, the petitions are not being pressed. Insofar as respondent No.3 is concerned, who is the sole signatory of the cheques in question even in the absence of any specific allegations or averments against him in the complaint he is liable to be prosecuted.

8. Perusal of the cause title of the complaint filed before the trial Court would go to show that, accused No.1 company is represented by its director, whereas accused No.2 company is represented by its authorized signatory, who is none other than respondent No.3 herein. Under these circumstances, I am of the opinion that, the learned Magistrate was not justified in dismissing applications in its entirety.

9. Accordingly, the following:-

ORDER

Criminal petitions are partly allowed.



The impugned order dated 29.07.2021 passed by the Court of V Addl. Civil Judge and JMFC, Ballari in C.C. Nos.1098, 1096, 1099, 1101, 1097, 1100 and 1095 of 2015, which is confirmed by the jurisdictional Sessions Court in Criminal Revision Petition Nos.130, 133, 134, 135, 132, 136 and 131 of 2022 are set aside insofar as it relates to rejection of application to the extent it relates to the prayer of the petitioner insofar as it relates to respondent No.3 who is the authorized signatory of the cheques in question is concerned and the petitioner is permitted to implead respondent No.3 in these petitions as party before the trial Court in the aforesaid cases.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE