

# Legal Document Analysis Report

## Summary:

The deeming fiction which has been created under Section 141 is with reference to the primary accused making the persons responsible for running of the day-to-day affairs of the company and/or the firm also vicariously liable for the offence committed by the company or the firm mainly for the reason that the punishment contemplated under Section 138 is imprisonment, the company or a firm cannot be imprisoned and therefore the directors and/or the partners or any other person who is/are in charge of the day-to-day

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NC: 2024:KHC:38869 affairs of the company or the firm as the case may be would be vicariously liable for the dishonour of a cheque issued on the account of the company or the firm as the case may be on the said cheque being dishonoured for the reasons as stated under Section 138. 24.7. Ramesh Kulkarni, learned counsel for the Respondent is that the Negotiable Instruments Act being a complete Code in itself, the principle of vicarious liability being imputed under Section 141 of the N.I. Act, the question of imputing vicarious liability would arise only upon the prime accused namely the firm being a party to the said complaint and in this

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regard he relies upon the decision of the Hon'ble Gujarat High Court in Sanjaybhai Jamnadas

Dharsandiya's case to contend that even if the firm's name is reflected in the cause title, the firm is required to be arraigned as an accused separately, mere impleading of a

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NC: 2024:KHC:38869 partner in the complaint would not suffice the requirement of Section 141.

24.4. When the Hon'ble Apex Court in the case of Bhupesh Rathod supra held that company was aware that complaint had to be filed by the company itself and signature on cheque was not disputed by the accused, neither was it explained by way of an alternative story as to why the duly signed cheques were handed over to the company and no case is set up with nature of transaction which availed beyond the scope of section 138 of NI Act and whether the petitioner was in charge of the affair of the firm or not, again it is a disputed fact and I have already pointed out that in paragraph-2 of the complaint, specific averments are made and so also in the legal notice, specific averments are made in respect of both the accused persons and when such being the facts and circumstances of the case, this Court cannot come to the conclusion that she was not in-charge of the day-to-day affairs of the firm and hence, I do not find any force in the second contention of the learned counsel for the petitioner that this petitioner was not in-charge of the day-to-day affairs of the firm.

The Registry is, directed to forward a copy of this order to the Law Commission of India with my request to consider the peculiarity of the firm in respect of a dishonour of cheque under Section 138 of the Negotiable Instruments Act taking into consideration that the firm is not a legal entity but is only an amalgamation of persons and in terms of Section 24 of the Partnership Act, notice to one partner would be notice to the firm and other partners and in terms of Section 25 of the Partnership Act every partner is liable jointly with all the other partners

and also severally for all acts of the firm done while she is a partner thereby imposing an individual liability on the partner, the liability also being both joint and several. By referring to Section 25

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NC: 2024:KHC:38869 of the N.I. Act, he submits that every partner is liable jointly with all the other partners and also severally for all acts of the firm done while as a partner, thus even if it is assumed that notice was issued to the Managing Partner, the fact of him being the Managing Partner not being disputed, even in terms of Section 25 of the Partnership Act without making the firm a party, the partner would be liable for all the actions.

13.8.

**Key Clauses:**

1. Smt K R Aruna Prasad vs Sri V Raghavendra on 19 September, 2024 Smt K R Aruna Prasad vs Sri V Raghavendra on 19 September, 2024

2. Author: Suraj Govindaraj Bench: Suraj Govindaraj -1-

NC: 2024:KHC:38869 CRL.P

3. No. 9909 of 2017 C/W CRL.P

4. No. 463 of 2018 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED

5. THIS THE 19TH DAY OF SEPTEMBER, 2024 BEFORE

PETITION NO. 9909 OF 2017 (482(Cr.

6. PC) / 528(BNSS)-) C/W CRIMINAL PETITION NO. 463

OF 2018 (482(Cr.

7. PC) / 528(BNSS)-)

8. P.9909 of 2017 BETWEEN: SMT G.K. AKSHATA, AGED ABOUT 35 YEARS,

W/O DR. K.J. RUDRADEV, R/AT NO. 38/58, "BASAVA KRUPA".

9. Digitally GOVINDAPPA ROAD, signed by BASAVANAGUDI, PRAKASH N BANGALORE-560004.

10. Location: ...

### **Detected Risks:**

penalty, fraud

- **New Data Protection Law:** The latest regulations require enhanced user consent for data collection.
- **Compliance Update:** Updated guidelines on contract enforcement and risk mitigation.