**The powers of the Metropolitan Magistrate cannot be usurped by parties with malafide intentions; they view the High Court as their only option in NI Act cases. High Court of Delhi**

Title: **Vinod Keni & Ors. vs Technology Development Board**
Decided on: 24th July, 2023

+ CRL.M.C. 942/2023 & CRL.M.A. 3608/2023, CRL.M.A. 3610/2023

CORAM: HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

 **Introduction:**

The present case involves two petitions filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) seeking the quashing of complaint cases registered under Section 138 of the Negotiable Instruments Act, 1881, along with the summoning orders issued by the Metropolitan Magistrate. The petitioners contend that they should not be held vicariously liable for the alleged offense as they were only nominee and non-executive directors of the company at the time of the incident. On the other hand, the respondent argues that the petitioners' claim of being non-executive directors is not supported by company records, and they should face trial as per the provisions of the Act.

**Facts:**

The complainant, the Respondent herein, filed two complaint cases against the petitioners under Section 138 of the Negotiable Instruments Act, alleging non-payment against dishonored cheques issued by the petitioners. The cheques were issued in favor of the respondent for substantial amounts. The Metropolitan Magistrate, based on the complainant's evidence and other documents, issued summoning orders requiring the petitioners to attend the court and face trial.

The petitioners, being aggrieved by the summoning orders, approached the High Court with petitions invoking Section 482 of the Cr.P.C., seeking the quashing of the complaint cases and summoning orders. They argued that they were merely nominee and non-executive directors of the company at the relevant time and were not involved in the day-to-day affairs or in charge of the conduct of the business of the company. The petitioners further claimed that there was no evidence to suggest that they had knowledge of the dishonored cheques or any consent or connivance on their part.

**Courts analysis and decision**

High Court's decision in this case is that it dismissed the petitions filed by the petitioners under Section 482 of the Cr.P.C. seeking the quashing of complaint cases and summoning orders issued against them under Section 138 of the Negotiable Instruments Act, 1881. The Court upheld the validity of the summoning orders issued by the Metropolitan Magistrate, which required the petitioners to attend the court and face trial.

The High Court found that the trial court had followed the proper procedures and had considered the complainant's evidence before issuing the summoning orders. The Court also rejected the petitioners' claim of being non-executive directors, as it was contradicted by the company records. The Court held that the question of whether the petitioners can be held liable under Section 138 of the Negotiable Instruments Act should be determined by the trial court based on the evidence presented by both parties.

The High Court emphasized that it should not interfere in the trial proceedings at this stage and allowed the trial court to proceed with the trial and consider the petitioners' defense. The Court made it clear that the burden of proving their defense lies with the petitioners, and it is the trial court's duty to evaluate the evidence and decide on their liability under the relevant provisions of the law.

In summary, the High Court's decision signifies that the case will proceed to trial, and the petitioners will have the opportunity to present their defense before the trial court. The dismissal of the petitions means that the High Court did not find sufficient grounds to quash the complaint cases or the summoning orders, and it has allowed the trial court to continue with the proceedings and determine the merits of the case.

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