

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 14630 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
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VAGHELA PARTH BABULAL
 Versus
 STATE OF GUJARAT & ORS.

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Appearance:
 MANAN V PATEL(8059) for the Applicant(s) No. 1
 MR KRISHNARAJSHIN D CHAUHAN(10648) for the Applicant(s) No. 1
 JUCKY LUCKY CHAN(8033) for the Respondent(s) No. 2
 MR. VIKASKUMAR B PATEL(9888) for the Respondent(s) No. 2
 ROHAN SHAH APP for the Respondent(s) No. 1
 RULE SERVED BY DS for the Respondent(s) No. 3,4

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 21/07/2026

ORAL JUDGMENT

1. By way of the present petition filed under 482 of the Code of Criminal Procedure, the petitioner has prayed to quash and set aside the Criminal Case No. 489/2022 pending before the Judicial Magistrate First Class, Gandhinagar under Section 138 of the Negotiable Instruments Act, and process dated 01.07.2022 issued in the said proceedings qua the present petitioner.

2. The facts in nutshell are to the effect that:-

2.1 That the Original Complainant – Respondent No. 2 herein had given a friendly loan to the present petitioner and Respondent No. 4 herein for business purposes amounting to Rs. 8,00,000/-. Against the said loan, Respondent No. 4, who is the partner of the petitioner, handed over the cheque in question to the Original Complainant for repayment of the debt. However, the cheque was dishonoured, and therefore, Criminal Case No. 489/2022 came to be filed before the Judicial Magistrate First Class, Gandhinagar.

2.2 Pursuant to which, the summons was issued against the present petitioner on 01.07.2022 and thus, the present petition before this Court.

3. Learned Advocate Mr. Manan V. Patel would submit that :-

3.1 The petitioner is not a signatory of the cheque in question.

3.2 The petitioner is not a partner, as the petitioner had resigned from the partnership firm way back in the year 2019, more particularly on 28.02.2019. Learned Advocate has placed reliance on the communication dated 28.02.2019 annexed as *Annexure B (Page No. 15)* to the memo of petition to point out that, as on 28.02.2019, the petitioner was not a partner of the partnership firm, namely, Parth Enterprise, which was running a café under the name and style of Bar Eat & Drink.

3.3 Learned Advocate has further placed reliance on the Affidavit-cum-Declaration (at Page No. 18) annexed to the memo of the petition to point out that Respondent No. 4 herein, Mayur

Dineshbhai Mistri, has also accepted the fact that the petitioner is no longer a partner in the partnership firm vide letter dated 28.02.2019, which is also signed by Respondent No. 4 herein, Mayur Dineshbhai Mistri. Thus, it was argued that the cheque was neither issued by the petitioner nor was he a partner in the partnership firm, as he had already resigned on 28.02.2019. The cheque in question was issued by Respondent No. 4 herein, Mayur Dineshbhai Mistri, on 18.12.2021. Therefore, it was argued to allow the present petition.

4. Per contra, Learned Advocate Mr. Rakesh Solanki for learned Advocate Mr. Jucky Lucky Chan would submit that:-

4.1 The factum of whether the present petitioner had resigned from the partnership firm is a question to be decided by the Trial Court during the course of the trial.

4.2 That a notice demanding payment of the cheque amount was also issued to the present petitioner. However, the present petitioner did not reply thereto, pursuant to which Criminal Case No. 489/2022 under the Negotiable Instruments Act came to be lodged, and summons came to be issued after the Trial Court found a prima facie case against the present petitioner and thus, argued to reject the present petition.

5. Heard learned Advocates for the respective parties.

5.1 The factum of the petitioner having resigned from the partnership firm way back in the year 2019, more particularly on 28.02.2019, having been accepted by Respondent No. 4 herein,

who also accepted that he would be responsible for all future transactions, including issuance of cheques from Account No. 50200037711290 starting from Cheque No. 000001, clearly indicates that the impugned cheque dated 18.12.2021, signed by Respondent No. 4 herein and bearing Cheque No. 000007, falls outside the scope of the petitioner's liability in relation to the partnership firm. The said fact is further supported by the Affidavit-cum-Declaration dated 30.06.2022 placed on record by the petitioner, wherein acceptance of the resignation as well as responsibility qua Parth Enterprise has been acknowledged by Respondent No. 4 herein.

5.2 Prima facie, it appears from the record that the present petitioner has no connection with the issuance of the cheque or with Parth Enterprise after having resigned from the partnership firm on 28.02.2019. In view of the same, no liability can be fastened upon the resigned partner.

6. In view of the above, the captioned petition stands allowed. The Criminal Case No. 489/2022 pending before the Judicial Magistrate First Class, Gandhinagar under Section 138 of the Negotiable Instruments Act, along with all consequential proceedings arising therefrom qua the present petitioner, stands quashed and set aside.

7. Rule is made absolute to the aforesaid extent.

MAHENDRA M PUROHIT

(P. M. RAVAL, J)