

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 2732/2023 @ SLP (CRL.) NO. 4877/2019

R.A. SAMY

APPELLANT(S)

VERSUS

C. RAVICHANDRAN

RESPONDENT(S)

O R D E R

1. Leave granted.

2. The complaint No.S.T.C. 571 of 2010 was filed by C. Ravichandran against R.A. Samy, Director, Trading Company Private Limited. The allegations in the complaint is that in the course of business, 11 cheques for a total sum of ₹5,70,000/- have been issued and when the same were presented for encashment the cheques were dishonored. The details of the cheques are as under:-

S.No.	Cheque No.	Date	Bank	Amount (₹)
1.	627963	10.05.09	State Bank of Bikaner & Jaipur	70,000/-
2	627960	20.05.09	- do -	50,000/-
3	627950	20.05.09	- do -	50,000/-
4	627958	25.05.09	- do -	50,000/-
5	627959	25.05.09	- do -	50,000/-
6	627956	05.06.09	- do -	50,000/-
7	627955	10.06.09	- do -	50,000/-
8	627954	15.06.09	- do -	50,000/-
9	627953	20.06.09	- do -	50,000/-

10	627952	25.06.09	- do -	50,000/-
11	627951	30.06.09	- do -	50,000/-

3. All the cheques are said to have been issued and signed by R.A. Samy as a Director, Trading Company Private Limited.

4. The cheques were apparently signed by the appellant on behalf of the Trading Company Private Limited for which R.A. Samy-appellant was the Director.

5. The above-mentioned complaint for offence under Section 138 of the Negotiable Instruments Act, 1881 has been instituted making only R.A. Samy as the sole accused.

6. In view of the decision in Aneeta Handa v. Godfather Travels & Tour Pvt. Ltd., (2012) 5 SCC 661, coupled with other decisions which has been consistently followed, including the decision of this Court in Himanshu v. B. Shivamurthy & Anr., (2019) 3 SCC 979, a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 cannot be proceeded with without making the company as accused in the case.

7. In view of the above, we set aside the impugned judgment and order of the High Court and quash the complaint No.S.T.C. 571 of 2010, pending on the file of Judicial Magistrate No.3, Salem. The appeal is, accordingly, allowed.

8. We make it clear that the appellant will be entitled to invoke and exercise any other remedy that may be available to him in law.

9. Pending application(s), if any, shall stand disposed of.

.....J
(PAMIDIGHANTAM SRI NARASIMHA)

.....J
(MANOJ MISRA)

NEW DELHI;
SEPTEMBER 05, 2023

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4877/2019

(Arising out of impugned final judgment and order dated 13-10-2017 in CRLP No. 738/2011 passed by the High Court of Judicature at Madras)

R.A. SAMY

Petitioner(s)

VERSUS

C. RAVICHANDRAN

Respondent(s)

(IA No. 75274/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 05-09-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. G. Sivabalamurugan, AOR
Mr. Selvaraj Mahendran, Adv.
Mr. C.adhikesavan, Adv.

For Respondent(s) Mr. A. Vasantha Kumar, Adv.
Mr. Sanchit V., Adv.
Ms. Ankita Gowtham, Adv.
Mr. Mudit Choudry, Adv.
Mr. Satender Kr. V., Adv.
Mr. Karunakar Mahalik, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed, in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)

(Signed order is placed on the file)