

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 686 OF 2004

VENKATESHWARAN & ANR.

Appellant (s)

VERSUS

M/S. SINGARAVEL YARN TRADERS

Respondent(s)

(With office report)

Date: 28/05/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR
HON'BLE MR. JUSTICE R.M. LODHA
[VACATION BENCH]

For Appellant(s)

Mr. S.P. Pandey, Adv.
Ms. Ambika Das, Adv.

Mr. T. Harish Kumar, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

The appeal has no merit and is dismissed in terms of the
signed order.

(Ravi P. Verma)
Court Master

(M.S. Negi)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 686 OF 2004

VENKATESHWARAN & ANR.

.....APPELLANT(S)

Versus

M/S. SINGARAVEL YARN TRADERS

.....RESPONDENT(S)

ORDER

The present appeal is against the order passed by the High Court
refusing to entertain the petition under Section 482 Cr.P.C. challenging
the proceedings of complaint filed against the accused persons for the
offence under Section 138 of Negotiable Instruments Act, 1881. The
petition was filed on the ground that the appellants were not the
partners and had nothing to do with the aforementioned firm which was

accused No.1 in the complaint. The learned Judge has observed that it was not possible at this stage to ascertain as to whether the concerned appellants were the partners of the partnership firm and whether there was any partnership firm in existence. When we see the complaint filed in trial Court, it is very clearly stated as under:

"6. The second accused is guilty, as drawer of the cheque on behalf of Accused No.1, as its Managing Partner. The Accused Nos. 3 and 4 being partners of the Accused No.1, were in charge of and were responsible for the conduct of the business of Accused No.1, and shall also be deemed to be guilty of the offence."

.....2.

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Therefore, the question as to whether the present appellants, who were accused No.3 and 4, were the partners of the firm and were responsible for conduct of business is the disputed question of fact which could not have been gone into under Section 482 Cr.P.C. The High Court was absolutely right in not entertaining that question. It would be during the trial for the accused persons to urge that they were not in any way concerned with the said partnership firm. In our opinion, the High Court was absolutely right in dismissing the petition under Section 482 Cr.P.C.

2. The appeal has no merit and is dismissed.

.....J.
(V.S. SIRPURKAR)

New Delhi;
May 28, 2009.

.....J.
(R.M. LODHA)