

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE  
FIR/ORDER) NO. 4459 of 2012**

**With**

**CRIMINAL MISC.APPLICATION NO. 4460 of 2012**

**TO**

**CRIMINAL MISC.APPLICATION NO. 4461 of 2012**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR.JUSTICE M.D. SHAH**

- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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M H MILLS & INDUSTRIES LTD....Applicant(s)  
Versus  
STATE OF GUJARAT & 1....Respondent(s)

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Appearance:

MR SI NANAVATI WITH MR SAURABH MEHTA FOR MRS VD NANAVATI,  
ADVOCATE for the Applicant(s) No. 1  
MR ASHISH H SHAH, ADVOCATE for the Respondent(s) No. 2  
MS KRINA CALLA, APP for the Respondent(s) No. 1  
RULE SERVED for the Respondent(s) No. 2

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**CORAM: HONOURABLE MR.JUSTICE M.D. SHAH**

**Date : 29/04/2014**

**ORAL JUDGMENT**

[1] Applications are preferred by the applicant M.H.Mills & Industries Ltd. - original accused no.1 under Sec.482 of the Code of Criminal Procedure for quashing of Criminal Case No.358 of 2009, Criminal Case No.359 of 2009 and Criminal Case No.360 of 2009 pending before the Court of learned J.M.F.C., Manavadar.

[2] Complaint is lodged by respondent no.2 against the present applicant and other accused persons under section 138 of the Negotiable Instrument Act. Present applicant is company. Original accused no.2 of the present complaints has filed Criminal Misc. Application No.404 of 2010, Criminal Misc. Application No.405 of 2010 and Criminal Misc. Application No.407 of 2010 and original accused no.3 to 7 have filed Criminal Misc. Application No.399 of 2010, Criminal Misc. Application No.400 of 2010 and Criminal Misc. Application No.401 of 2010 before this Court with a prayer to quash the impugned complaint. This Court passed an order on 23.12.2011 and 26.12.2011 respectively whereby the complainant and applicants of the said applications were permitted to compound the offence of complaints which was filed before the learned JMFC, Manavadar with condition of payment of additional amount and depositing 15% of the cheque amount with Gujarat State Legal Services Authority and the complaints were quashed.

[3] It is submitted by learned senior advocate for the applicant that applicant is company and applicant company is joined as original accused no.1 in the impugned complaint. It is submitted that at the relevant time, applicant company had not filed petition and therefore, complaint is not quashed qua present applicant. Therefore, it is requested to allow the applications and requested to quash the complaints qua applicant herein.

[4] It is submitted by Mr.Shah, learned advocate for respondent no.2 that so far as other accused are concerned, this Court has granted permission for compounding the offence and so far as present case is concerned, the matter is not settled between the parties and so the complaint should not be quashed. Therefore, it is requested to dismiss the applications.

[5] Heard learned advocates for the respective parties. It is admitted fact that other accused persons had preferred applications before this Court for quashing the complaint and this Court by order dated 23.12.2011 and 26.12.2011 quashed the impugned complaints and the complainant and applicants of the said applications were permitted to compound the offence of complaints which was filed before the learned JMFC, Manavadar with condition of payment of additional amount and depositing 15% of the cheque amount with Gujarat State Legal Services Authority. Para 5 of the order dated 23.12.2011 passed by this Court in Criminal Misc. Application No.399 of 2010 reads as under :-

*“5.0. Having heard the learned advocates for the respective parties and considering the fact the cheque amount was already paid to the original complainant within a period of three days after the institution of complaint and considering the facts stated hereinabove and on payment of additional amount of Rs.20,000/- to the original complainant and considering the decision of the Hon'ble Supreme Court in the case of Damodar S. Prabhu(supra) on deposit of 15% of the cheque amount (Rs.35,250/-) with the Gujarat State Legal Services Authority, while permitting the applicants to*

*compound the offence, the applicants are permitted to compound the offence for which the complaint being Criminal Case No. 358 of 2009 pending in the Court of learned JMFC, Manavadar has been filed by the original complainant against the applicants original accused Nos. 3 to 6 and 8. Consequently the applicants herein original accused nos. 3 to 6 and 8 shall not be tried in the aforesaid case for the offence punishable under Section 138 r/w 141 of the Negotiable Instruments Act. Liberty is reserved in favour of the original complainant for interest and as and when such proceedings are initiated, the same be considered in accordance with law and on merits and if permissible under the law. Applicants to deposit 15% of the cheque amount (Rs. 35,250/-) with the Gujarat State Legal Services Authority within a period of two weeks from today (as reported the Demand Draft is already with the learned counsel for the applicants). Rule is made absolute to the aforesaid extent.”*

[6] As per the order passed by this Court, cheque amount as well as additional amount is received by the complainant from other accused persons – original accused nos.2 to 7 who were Directors of the company and 15% of the cheque is also deposited with the Gujarat State Legal Services Authority by the said accused persons.

[7] Considering above facts, this Court is of the opinion that no useful purpose would be served by permitting the criminal proceedings pending against the applicant herein – original accused no.1. Hence, the complaints in question are required to be quashed and therefore, the

applications are required to be allowed.

[8] In the result, present applications are allowed on condition that the applicant herein shall deposit Rs.2000/- (Rupees Two Thousand only), in each application, with the Gujarat State Legal Services Authority within a period of 15 days from the date of receipt of present order. The Criminal Case No.358 of 2009, Criminal Case No.359 of 2009 and Criminal Case No.360 of 2009 pending before the Court of learned J.M.F.C., Manavadar and proceedings therein are required to be quashed and are accordingly quashed qua the present applicant – original accused no.1.

Rule is made absolute to the aforesaid extent in each of the application.

**[M.D.Shah, J.]**

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