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**(2010) 04 MAD CK 0247**

**In the Madras High Court**

**Case No :** Criminal O.P. No. 3001 of 2007 and M.P. No. 1 of 2007

S. Sujatha, S. Kavitha and R. Rukmani

APPELLANT

Vs

K. Balakrishnan

RESPONDENT

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**Date of Decision :** 07-04-2010

**Acts Referred:**

Negotiable Instruments Act, 1881 (NI) — Section 138

**Citation :** (2010) 3 BC 243

**Hon'ble Judges :** C.T. Selvam, J

**Bench :** Single Bench

**Advocate :** B. Vasudevan, for the Appellant; C.D. Johnson, for the Respondent

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**Judgement**

C.T. Selvam, J.—The petitioners, who are accused 4 to 6 in case pending in S.T.C. No. 661 of 2006 on the file of the learned District Munsif cum Judicial Magistrate, Paramathy, Namakkal District seek quash of proceedings as against them.

2. Such is a case alleging commission of offence u/s 138 of the Negotiable Instruments Act (hereinafter referred as Act). The 1st accused is the company and the 2nd accused is said to be the Managing Director thereof and is the person who had issued the cheque giving rise to the filing of the complaint. The accused 3 to 6 are directors thereof.

3. On dishonour of a cheque in a sum of Rs. 7,00,000/- issued on behalf of the 1st accused company by the 2nd accused, the respondent/complainant has followed the procedure envisaged u/s 138 of the Act and preferred the complaint.

4. In such compliant and as above stated, the petitioners herein are arrayed as accused 4 to 6 in their capacity as directors. The short point made by the learned Counsel for the petitioners and which requires immediate acceptance is that there is no averment in the complaint that these petitioners who are directors were incharge of and responsible to the 1st accused company in the conduct of its affairs at the time of commission of offence. Reliance is placed on the decision of the Honourable Apex Court in S.M.S. Pharmaceuticals Ltd. Vs. Neeta Bhalla

and Another,

5. I have heard the learned Counsel for the respondent on the submissions made by the learned Counsel for the petitioners.

6. The petition deserves to be allowed. Accordingly, the Criminal Original Petition is allowed. The proceedings in S.T.C. No. 661 of 2006 on the file of the learned District Munsif cum Judicial Magistrate, Paramathy, Namakkal District shall stand quashed in so far as the petitioners herein are concerned. Consequently, the connected miscellaneous petition is closed.

7. The learned Counsel for the respondent informs that the case has been pending before the lower Court since the year 2006 and prays that a direction be issued for early disposal of the case. The lower Court is directed to dispose of the case before it within a period of three months from the date of receipt of a copy of this order.