

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1338 OF 2002

C.G. Praveen

...Appellant(s)

Versus

Mohd. Tajuddin and Anr.

...Respondent(s)

With Criminal Appeal Nos.813 of 2003, 440 of 2005 and 443 of 2005

O R D E R

Criminal Appeal No.1338 of 2002

Heard learned counsel for the parties.

By the impugned order, the High Court quashed the prosecution of respondent no.1 Mohd. Tajuddin under Section 138 of the Negotiable Instruments Act, 1881 (for short, “the Act”) only on the ground that the complaint was filed by the power of attorney holder of the payee and not the payee himself. The question whether the signing of complaint by the payee himself is *sine qua non* for taking cognizance of offence under Section 138 of the Act is no longer *res integra*. In *Shankar Finance and Investments v. State of Andhra Pradesh and others* [(2008) 8 SCC 536], this Court interpreted Section 142 of the Act and held that a complaint under Section 138 can be filed by the payee through his power of attorney holder. In this case, the complaint was filed by the payee through his power of attorney holder. This being the position, the High Court was not justified in quashing the prosecution of respondent no.1.

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Accordingly, the appeal is allowed, impugned order is set aside and the petition filed by respondent no.1 under Section 482 of the Code of Criminal Procedure is dismissed. Now, the trial court shall proceed with the case in accordance with law.

As the complaint was filed in 1996, we direct the concerned trial court to conclude the trial within six months from the date of receipt/production of the copy of this order.

Criminal Appeal Nos. 813 of 2003, 440 of 2005 and 443 of 2005.

In view of the order passed in Criminal Appeal No. 1338 of 2002, these appeals are allowed in the similar terms.

New Delhi,
April 22, 2009.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

JUDGMENT