

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.37 OF 2009
(Arising out of S.L.P. (Crl.) No.3452 of 2004)

P. Sukumar & Ors.

...Appellant(s)

Versus

M/s. Godrej Appliances Ltd. & Ors.

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the appellants and complainant-respondent No.1.

By the impugned order, the High Court refused to quash prosecution of the appellants under Section 138 of the Negotiable Instruments Act, 1881 (for short ‘the Act’).

Learned counsel appearing on behalf of the appellants submitted that in the complaint petition filed on behalf of respondent No.1, the appellants have been described as partners of M/s. Premier Electronics (respondent No.2 herein) but no specific allegation has been made against them as per the requirement of Section 141 of the Act and the High Court committed an error by refusing to quash their prosecution.

....2/-

In support of his argument, learned counsel has placed reliance upon the judgment of larger Bench in S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla & Anr. [2005 (8) SCC 89]. Learned counsel for respondent No.1 fairly admitted that the complaint does not satisfy the requirement of Section 141 of the Act insofar as the appellants are concerned.

In the facts and circumstances of the case, we find merit in the argument of the learned counsel for the appellants that the case of his client is covered in Neeta Bhalla's case.

The appeal is, accordingly, allowed and the prosecution of the appellants is hereby quashed.

We may, however, observe that this order shall not in any manner prejudice the case of the complainant so far as other accused are concerned.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
January 12, 2009.