

SUPREME COURT OF INDIA

V.K. Jain

Vs.

Union of India (Uoi)

(K Thomas and M Shah JJ.)

01.11.1999

JUDGMENT

K.T.THOMAS, J:-

1. This writ petition filed under Article 32 of the Constitution for quashing various prosecution proceedings launched against this petitioner for the offence under Section 138 of the Negotiable Instruments Act merely on the ground that petitioner is unable to go to all the different Courts where the cases are pending. He contends that he was not participating in the affairs of the Company which issued the cheques. It is a defence which he can adopt in the prosecutions. But merely raising such a contention now is no ground for quashing the prosecutions.

2. All the same, considering the plight of the petitioner in defending prosecution proceedings instituted at various places in India on the strength of the cheques issued by the Company of which he was the Director, we permit the petitioner to move the Court concerned (before which the prosecution is pending in any of the cases) for exempting him from personal appearance. This can be done only after making the first appearance in the Court concerned. If any such application is filed by the petitioner, we direct the Court concerned to exempt him from personal appearance on the following conditions:

1. A counsel on his behalf would be present in the particular Court on days when his case is taken up;
2. He will not dispute his identity as the accused in the case.
3. He will be present in Court when such presence is imperatively needed.

With the aforesaid reliefs granted to the petitioner we dispose of the writ petition.