

**SUPREME COURT OF INDIA**

R. Rajgopal

Vs.

S.S. Venkat

Crl.A.No.170-172 of 2000

(K. T. Thomas and M. B. Shah, JJ.)

11.02.2000

**ORDER**

1. Leave granted.

2. The only ground on which the complaint filed by the petitioner against the respondent for the offence under Sec.138 of the Negotiable Instruments Act has been quashed by the High Court is that the Company (the partnership firm in this case) on whose behalf the cheque was issued was not made an accused in the complaint. Respondent who is the partner has been made an accused.

3. The aforesaid stand of the High Court cannot now be sustained in view of the pronouncement of law on the subject in Anil Hada v. India Acrylic Limited, (2000) 1 SCC 1 : (1999 AIR SCW 4228 : AIR 2000 SC 145 : 2000 Cri LJ 373).

4. Learned counsel for the respondent then submitted that there are other Contentions which

respondent has to raise as against the prosecution. We are not disposed to deal with all those contentions, for, it is open to the respondent to raise such contentions in the trial Court.

5. In the result we set aside the impugned judgment and direct the trial Court to proceed with the trial.

6. The appeals are disposed of.

Order accordingly.