REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

APARACHITA DUTTA V. STATE OF WEST BENGAL (2023)

BENCH: Mr. Justice B.R. Gavai & Mr. Justice Prashant Kumar Mishra **DECIDED:** September 11, 2023

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Non-executive woman director residing away with no operational control cannot be roped into Section 138 prosecution under Section 141.

1. Factual Matrix & Background:

The appellant, an independent non-executive woman director, was arraigned as an accused under Section 138 read with Section 141 NI Act in respect of cheques issued by the company. She was not a signatory to the cheques and resided in a different city. The High Court dismissed her Section 482 petition.

2. Substantive Legal Questions Framed:

Whether a woman non-executive director who is neither a signatory to the dishonoured cheques nor in operational control of company finances can be prosecuted under Section 141.

3. Analysis & Ratio Decidendi:

The Supreme Court quashed the proceedings against the appellant, reiterating that criminal liability under Section 141 cannot be inferred merely from holding a directorship. There must be specific, cogent averments detailing the active role played by the director in negotiating or issuing the dishonoured cheques. Non-executive women directors living separately cannot be subjected to vexatious criminal trials.

4. Principles Enunciated:

- 1. Directorship alone does not establish vicarious criminal liability under Section 141.
- 2. Non-executive directors without cheque signing powers are shielded from omnibus complaints.
- 3. High Courts under Section 482 must scrutinize corporate records to prevent harassment of family members.

5. Practical Litigation Implications:

- Non-executive directors should immediately place Form DIR-12, board resolutions, and annual reports on record in a Section 482 quashing petition to establish lack of operational management.

.....J.
[SUPREME COURT BENCH]