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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4954/2019, CRL.M.A. 37143/2019, CRL.M.A.
32097/2023

SATPAL SINGH THAKUR

.....Petitioner

Through: Mr. Pradeep Kumar Arya, Mer.
Aditya Kumar Yadav, Mr. Gaurav
Chaudhry and Mr. Rishabh,
Advocates.

versus

M/S UNIVERSAL ENTERPRISES

.....Respondent

Through: Mr. Vijender Mann and Mr. K.K.
Mishra, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **26.08.2025**

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of complaint case bearing C.C. No. 73/2018 under Section 138 of the Negotiable Instruments Act, 1881² and Section 420 of the Indian Penal Code, 1860³ titled “***M/s Universal Enterprises v. M/s. Aastha Surgimed Ltd. & Ors.***” as well as all consequential proceedings arising therefrom. The Petitioner has been arrayed as Accused No. 3 in the said complaint.

2. The subject complaint instituted by the Respondent pertains to dishonour of two cheques, one for INR 46,17,226/- and another for INR 47,00,000/- allegedly issued by the accused company Aastha Surgimed Ltd. (Accused No. 1), towards discharge of its liability for the dues owed to the

¹ “Cr.P.C.”

² “NI Act”



Respondent Company against the supply of laboratory equipment and consumable goods in the course of business. It is the Complainant's case that liability under the NI Act does not rest solely with the company, but extends to its directors including the present Petitioner, who are also vicariously liable for the offence, by virtue of the deeming fiction contemplated under Section 141 of the NI Act.

3. Following the institution of the complaint and the recording of pre-summoning evidence, the Magistrate, by order dated 26th March, 2018, summoned the Petitioner for the offence punishable under Section 138 of the NI Act.

4. Counsel for the Petitioner, at the outset, submits that the subject cheques were neither signed nor issued by the Petitioner, nor was he a signatory to the bank account of the accused company. It is further contended that the Petitioner was merely a Professional Director in the company. In support of this claim, reliance is placed on Form No. DIR-11 issued by the Ministry of Corporate Affairs, annexed as Annexure P-4 to the petition.

5. It is further contended that the complaint does not contain any specific averment as to how the Petitioner was in charge of, or responsible for, the conduct of the company's business at the relevant point of time. Mere designation or status as a director, without a clear allegation of actual responsibility for the day-to-day management of the company, is insufficient to attract vicarious liability under Section 138 read with Section 141 of the NI Act. The Courts have emphasised that liability cannot be fastened mechanically on every director of a company and that the complaint must

³ "IPC"



disclose the precise role attributed to the accused. In the present case, the complaint is silent on this aspect, and thus, the invocation of Section 141 against the Petitioner is legally untenable.

6. Counsel for the Complainant, on the other hand, opposes the petition and contends that the accused company is a closely held private limited entity, with Accused Nos. 2 to 4, including the Petitioner, being its directors. It is urged that since the directors are real brothers, the company is essentially a family-run concern where each director is presumed to be actively involved in its affairs. In such circumstances, the Petitioner cannot distance himself from the conduct of the company's business or feign ignorance of its operations. It is further argued that although the Petitioner seeks to describe himself as a "Professional Director", he has neither explained the nature of his professional role nor placed on record any material to show the basis of such appointment. The Complainant thus submits that the plea of being a mere nominal director is a bald assertion, devoid of any substantiation, and cannot absolve the Petitioner of liability under Section 141 of the NI Act.

7. It is further contended that the accused company and its directors, including the Petitioner, are already facing several other complaints under Section 138 of the NI Act, as reflected in the Complainant's reply to the present petition. Reliance is also placed on a transaction with M/s Agarwal Technoplast, in respect of which a complaint had been lodged against the accused company. That dispute was subsequently settled by the Petitioner, who admittedly purchased the demand draft issued in favour of the said company. This, according to the Complainant, demonstrates not only the Petitioner's knowledge of but also his active participation in the company's



financial dealings. Such conduct belies the plea of the Petitioner that he was a mere nominal or professional director with no role in the day-to-day business. In these circumstances, it is submitted that the Petitioner has been rightly impleaded as an accused, and that neither the complaint nor the summoning order suffers from legal infirmity at this stage, particularly when the allegations clearly disclose a triable issue.

8. The Court has considered the submissions advanced by the parties. It must be underscored at the outset that the inherent jurisdiction under Section 482 Cr.P.C. is to be exercised with great circumspection, particularly at the threshold stage of issuance of summons. Interference at this stage has the effect of short-circuiting the trial process, thereby denying parties the opportunity to lead and test evidence before the proper forum. The Supreme Court, in **Rathish Babu Unnikrishnan v. State (NCT of Delhi)**,⁴ after considering a catena of judgments, elucidated the principles governing the exercise of inherent jurisdiction to quash proceedings at the summoning stage. The relevant portion of the judgement is reproduced below:

*“14. The parameters for invoking the inherent jurisdiction of the Court to quash the criminal proceedings under S.482 CrPC, have been spelled out by Justice S. Ratnavel Pandian for the two judges’ bench in **State of Haryana v. Bhajan Lal** [1992 Supp (1) SCC 335 : AIR 1992 SC 604], and the suggested precautionary principles serve as good law even today, for invocation of power under Section 482 of the Cr.P.C.*

‘103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.’

15. In the impugned judgment, the learned Judge had rightly relied upon

⁴ 2022 SCC OnLine SC 513.



the opinion of Justice J.S. Khehar for a Division Bench in **Rajiv Thapar** (supra), which succinctly express the following relevant parameters to be considered by the quashing Court, at the stage of issuing process, committal, or framing of charges,

‘28. The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same.’

16. The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. **What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.**

17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. **Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.**

18. Situated thus, to non-suit the complainant, at the stage of the summoning order, when the factual controversy is yet to be canvassed and considered by the trial court will not in our opinion be judicious. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial Court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited.”

[Emphasis Supplied]



9. Furthermore, the Supreme Court, in ***Gunmala Sales (P) Ltd. v. Anu Mehta***,⁵ laid down specific guidelines for the exercise of inherent powers by the High Courts under Section 482 Cr.P.C. in matters relating to the quashing of complaints filed under Section 138 of the NI Act:

34. We may summarize our conclusions as follows:

34.1. Once in a complaint filed under Section 138 read with Section 141 of the NI Act the basic averment is made that the Director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed, the Magistrate can issue process against such Director.

34.2. If a petition is filed under Section 482 of the Code for quashing of such a complaint by the Director, the High Court may, in the facts of a particular case, on an overall reading of the complaint, refuse to quash the complaint because the complaint contains the basic averment which is sufficient to make out a case against the Director.

34.3. In the facts of a given case, on an overall reading of the complaint, the High Court may, despite the presence of the basic averment, quash the complaint because of the absence of more particulars about role of the Director in the complaint. It may do so having come across some unimpeachable, incontrovertible evidence which is beyond suspicion or doubt or totally acceptable circumstances which may clearly indicate that the Director could not have been concerned with the issuance of cheques and asking him to stand the trial would be abuse of the process of the court. Despite the presence of basic averment, it may come to a conclusion that no case is made out against the Director. Take for instance a case of a Director suffering from a terminal illness who was bedridden at the relevant time or a Director who had resigned long before issuance of cheques. In such cases, if the High Court is convinced that prosecuting such a Director is merely an arm-twisting tactics, the High Court may quash the proceedings. **It bears repetition to state that to establish such case unimpeachable, incontrovertible evidence which is beyond suspicion or doubt or some totally acceptable circumstances will have to be brought to the notice of the High Court. Such cases may be few and far between but the possibility of such a case being there cannot be ruled out. In the absence of such evidence or circumstances, complaint cannot be quashed.**

34.4. No restriction can be placed on the High Court's powers under Section 482 of the Code. The High Court always uses and must use this power sparingly and with great circumspection to prevent inter alia the abuse of the process of the Court. There are no fixed formulae to be

⁵ (2015) 1 SCC 103.



*followed by the High Court in this regard and the exercise of this power depends upon the facts and circumstances of each case. **The High Court at that stage does not conduct a mini trial or roving inquiry, but, nothing prevents it from taking unimpeachable evidence or totally acceptable circumstances into account which may lead it to conclude that no trial is necessary qua a particular Director.***

[Emphasis Supplied]

10. In the present case, the Petitioner's principal defence is that he was merely a "Professional Director" of the accused company and therefore could not be saddled with vicarious liability under Section 141 of the NI Act. However, when queried by this Court as to the nature of the Petitioner's professional expertise or technical qualifications that warranted such an appointment, counsel candidly admitted that the Petitioner is a teacher by vocation and could not point to any specialised knowledge or skill relevant to the functioning of the company. This admission significantly undermines the Petitioner's own plea. A claim of being a Professional or Non-Executive Director presupposes a demonstrable professional capacity or specialised competence, detached from day-to-day affairs of the company. In the absence of such credentials, the assertion appears contrived and fails to provide any credible basis for exemption from the statutory dragnet of Section 141. Thus, the very foundation of the Petitioner's attempt to escape vicarious liability is eroded, leaving the plea devoid of merit.

11. With respect to the Petitioner's contention that the complaint lacks averments against him, a plain reading of the complaint reveals otherwise. While it is true that substantial allegations are directed against Accused Nos. 2 and 4, the complaint does contain allegations against the Petitioner, who is arrayed as Accused No. 3. It is expressly stated that, following the dishonour of the cheques, the Complainant personally visited the residence of the



directors, including the Petitioner, and informed them about the dishonour of the subject cheques issued by the accused company. It is further noted that the accused directors are real brothers, indicating that the company is a closely-held, family-run concern where control and management ordinarily vest in this small group. In such a context, the Petitioner cannot plausibly distance himself from the affairs of the company or claim ignorance of its operations. More significantly, the Complainant has averred that the Petitioner, acting as the Authorised Representative of the company, had himself settled a prior complaint filed by another entity at Pune. Such conduct *prima facie* evidences the Petitioner's active participation in the business of the company and undermines his plea of non-involvement.

12. In light of the foregoing discussion, this Court is of the view that, at the stage of issuance of summons, where the factual matrix is yet to be tested through evidence, it would be premature to conclusively exclude the Petitioner's role, authority, and responsibilities as a director of the accused company. The allegations set out in the complaint, in conjunction with the Petitioner's admission that he does not qualify as a "Professional Director" and his prior involvement in the settlement of a similar dispute, *prima facie* reveal sufficient material to warrant the issuance of summons against him. Furthermore, in terms of the judgement in **Rathish Babu** and **Gunmala Sales**, the Petitioner has failed to present any defence of unimpeachable or incontrovertible quality that would persuade this Court to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the proceedings at this preliminary stage.

13. Accordingly, this Court finds no justification to interfere with the



impugned complaint or the summoning order. The petition is, therefore, dismissed, along with pending applications.

SANJEEV NARULA, J

AUGUST 26, 2025/ab