

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.196 OF 2016
WITH
WRIT PETITION NO.197 OF 2016
WITH
WRIT PETITION NO.200 OF 2016
WITH
WRIT PETITION NO.202 OF 2016
WITH
WRIT PETITION NO.204 OF 2016

Purushothaman Jambukesan through
its power of attorney holder
Anil Rickabcghand BA .. Petitioner

-Versus-

Patel Engineering Limited & Ors. ..Respondents

WITH

WRIT PETITION NO.198 OF 2016
WITH
WRIT PETITION NO.199 OF 2016
WITH
WRIT PETITION NO.201 OF 2016
WITH
WRIT PETITION NO.203 OF 2016
WITH
WRIT PETITION NO.205 OF 2016

Mathiyazhagan Kaverichetty through
its power of attorney Anil Rickabchand .. Petitioner

Versus

Patel Engineering Limited & Ors. .. Respondents

WITH

WRIT PETITION NO.206 OF 2016
WITH
WRIT PETITION NO.207 OF 2016
WITH
WRIT PETITION NO.209 OF 2016
WITH
WRIT PETITION NO.211 OF 2016
WITH
WRIT PETITION NO.213 OF 2016

Jain Granites and Projects India
Limited and Ors.

.. Petitioners

Versus

Patel Engineering Limited and Ors.

.. Respondents

Mr. Jaideep Lele & Mr. Raj Mehta with Mr. Anish Parmar i/b. RKM Legal
Services for petitioners

Mr. C.K.Pendse i/b. GMS Legal for respondent No.1

Mrs. A.S.Pai, APP in W.P.196 of 2016

Mr.H.S.Dedhia, APP in W.P.198 of 2016

Mrs. V.R.Bhonsale, APP in W.P.206 of 2016

Mrs. A.S.Shitole, APP in W.P.208 of 2016 For State -

CORAM : DR. SHALINI PHANSALKAR JOSHI, J.

DATE : 15th February 2016.

ORAL ORDER:-

1] This batch of writ petitions raises two common questions of law, hence they are being decided by this common judgement. The first question of law raised for consideration, pertains to the scope of enquiry

under section 202 of Cr.P.C. and the second question is about the liability of the Directors of the company under section 141 of Negotiable Instruments Act, (N.I.Act).

2] The facts which are relevant for deciding these two questions can be stated as follows:-

The respondent No.10 Jain Granites is a public limited company having its registered office at Chennai and inter alia dealing in supplies of High Quality TMT bars through out India. The petitioners are the Directors of respondent No.10 company, except for the petitioner, Purushottam Jambukesan, who is an ex-director of respondent No.10 company. Respondent No.1 is the original complainant. One Mr.Tulsiram, agent of respondent No.1 wrote to Jain Granites requiring supply of TMT bars of particular measurements more particularly set out in the petition on the terms of transactions as set out in the e-mail. Respondent No.10 furnished necessary details vide its e-mail dated 31st October 2014. Pursuant to the discussion, Jain Granites submitted its offer by way of proforma invoice dated 5th November 2014 for supply of agreed product.

3] The said contract was for a sum of Rs.1,52,72,000/- for supply of

goods. As per the instructions of respondent No.2, Jain Granites issued fresh proforma invoice which respondent No.1 accepted along with the terms and conditions stipulated therein and requested Jain Granites to send the material. As against the three sales contract for Rs.42,62,42,250/- the first respondent had issued three letters of credit for a total sum of Rs.35,80,00,000/- drawn on Bank of India, Andheri, Mumbai. On and from 29th November 2014 to 1st December 2014, respondent No.1's representative picked up materials from the warehouse of Jain Granites in trucks and duly acknowledged receipt of the material. On 1st December 2014, Jain Granites raised tax invoices which were handed over to the Managing Director of respondent No.1 who has duly received and acknowledged the receipt. On 2nd December 2014, upon receipt of supply and invoice, respondent No.1 wrote to its banker that with reference to aforesaid three letters of credit it had accepted documents received under the said three letters of credit and requested to debit the necessary charges from its account. In between 2nd and 3rd December 2014, the Jain Granites discounted the aforesaid tax invoices and after deduction of the sum of Rs.1,85,48,142/- Jain Granites account was credited with the sum of Rs.33,94,51,858/-. On 2nd December 2014 respondent No.1 suddenly and unilaterally rejected taking goods under the said three proforma invoices and requested to treat the purchase deal as cancelled and called upon Jain Granites to

refund the billed amount. Believing on the representation and assurances of respondent No.1, the Jain Granites in good faith arranged the remaining sum of Rs.11,21,16,122/- through their bankers. Accordingly, the Jain Granites refunded an amount of Rs.11,21,15,122/-. While Jain Granites was awaiting the return of the material supplied, vide its letter respondent No.1 requested Jain Granites to refund a sum of Rs.22,82,35,736/- and provided its bank details in this behalf. Jain Granites by its letter to respondent No.1 recorded that subject to necessary debit notes issued by respondent No.1 for return of the goods duly acknowledged, it would pay back a value of Rs. 22,82,35,736 on or before 31st December 2015. Since goods were not returned, Jain Granites reminded respondent No.1 to return the supplied material, its M.D. and V.P. requested to issue post dated cheques for the repayment of the balance amount to enable respondent No.1 to return all the materials in the same good condition. With the bonafide intention of amicably resolving the issue, and in good faith, Jain Granites issued five post dated cheques for the total sum of Rs.22,75,00,000/- drawn on Indian Overseas bank, Chennai. When the said cheque were presented to the bank they were dishonoured. After issuing demand notice and receiving the reply thereon, five different complaints came to be filed in the court of Additional CMM 33rd Court, Ballard Pier.

4] The trial court recorded verification of the complainant's representative and, thereafter, the process came to be issued against the petitioners for offences punishable under section 138 and 141 of N.I. Act. This order of issuance of process was challenged by the petitioners by preferring various revision applications in the Court of Sessions, Mumbai and the said revision applications came to be dismissed.

5] As per the learned Counsel for petitioners, there are two sets of Directors. Original accused Nos. 6 to 9, according to the learned Counsel for the petitioners, are non executive directors whereas accused Nos. 2 to 5 are the Executive Directors. As regards Executive Directors, the order of issuance of process is challenged only on the ground that the requisite enquiry as contemplated under section 202 of Cr.P.C. was not carried out by the learned Magistrate and, therefore, the order of issuance of process against them is required to be quashed and aside aside.

6] As regards the Non Executive Directors, i.e. original accused Nos. 6 to 9 it is submitted that section 141 of the N.I. Act confers a vicarious liability and such liability has to be construed strictly in case of non executive directors, as they were appointed for a particular purpose considering their expertise in their specific field. Hence, they cannot be

held liable vicariously as they were never in charge of day to day business and management of the company. Hence, it is urged that in respect of these non executive directors, the learned Magistrate has not applied his mind while issuing process. Therefore, the process against them is required to be quashed and set aside. The issuance of process against these non executive directors is also challenged on the ground that enquiry under section 202 of Cr.P.C. was not carried out before issuing process.

7] In respect of the original accused No.9 Purshottam, it is further urged that at the time of issuance of dishonoured cheques he was not the Director of the company, having resigned therefrom much prior to the issuance of the cheque. Therefore, the process issued against him is not tenable and needs to be quashed and set aside on this ground also.

8] Per contra, learned Counsel for the respondent No.1 – original complainant has supported the order of issuance of process by submitting that the petitioner had already challenged the said order before the sessions court by filing various criminal revision applications but without success. The same issues are raised in these petitions also. Therefore, in a way this is a second revision application filed by the petitioners seeking back door entry to the High Court. Hence, the

petitions are required to be dismissed on this ground.

9] Secondly, it is submitted that the learned Magistrate has carried out necessary enquiry before issuing process and, therefore, when the scope of enquiry under section 202 of Cr.P.C. is not defined anywhere and the impugned order of the learned Magistrate reflects application of mind, the contention that the learned Magistrate has issued process without application of mind is untenable. As regards the liability of Directors, learned Counsel for the respondent No.1 has relied upon various authorities of the Apex Court to advance his submissions that in all these criminal complaints filed before the learned Magistrate, sufficient averments are made which are required to be under section 141 of the N.I. Act.

10] In the light of the submissions which are advanced before me, the first point which I find it fit to consider is in respect of the enquiry under section 202 of Cr.P.C. not being undertaken before issuing process. In this case it is urged that the petitioners/ accused are not residing in the jurisdiction of the Learned magistrate and section 202 of Cr.P.C. contemplates postponement of issuance of process in case where the accused are residing at places beyond the area in which the Magistrate exercises his jurisdiction and thereafter either enquire into the case

himself or by directing the investigation to be made by the police officer or by such other person as he thinks fit. The word “shall” which is appearing in this section is also interpreted by the Apex Court in the case of **Vijay Dhanuka Vs. Najima Mamtaj Etc. reported in 2014 Cri.L.J. 2295**, as of mandatory nature, holding that such enquiry is a necessary safeguard provided by the Legislature against the false complaint filed against the persons residing at far off places only with a intention to harass them. As to the manner or scope of inquiry under section 202 Cr.P.C., the Apex Court, has summarised the position in para 14 of this decision as follows:-

“14.it is evident from the aforesaid provision that every inquiry other than a trial conducted by the Magistrate or court is an inquiry. No specific mode or manner of inquiry is provided under section 202 of the Code. In the inquiry envisaged under section 202 of the Code, the witnesses are examined whereas under section 200 of the Code, examination of the complainant only is necessary with the option of examining the witnesses present, if any. This exercise by the Magistrate for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused is nothing but an inquiry envisaged under section 202 of the Code.

11] Thus as per the legal proposition as enunciated by the Apex Court in this authority, the particular mode in which the inquiry is contemplated under this section, is not laid down in any of the legal provisions. Hence, the Magistrate can decide his own mode of inquiry and arrive at his own

satisfaction to ascertain that a false case is not filed against the accused who are residing at far off places in order to harass them. Needless to state that in each and every case examination of the witnesses may not be necessary for the satisfaction of the Magistrate. The Magistrate can be satisfied on the basis of material also. As the specific mode of inquiry is not suggested or laid down, ultimately, everything depends upon the facts of the case.

12] In the case at hand even a cursory perusal of the impugned order passed by the learned Magistrate reflects that the Magistrate was aware that the accused persons were residing outside his territorial jurisdiction and the Magistrate has also applied his mind to the fact whether the requisite documents have been executed in Mumbai and cause of action arose in Mumbai and thereafter on the basis of the affidavit of the verification statement of the complainant, which was recorded before him, the Magistrate has passed the impugned order of issuing process. The Magistrate has also looked in to the documents produced in support of the complaint like ROC record etc. Thus, from the perusal of the order impugned, it cannot be said that the Magistrate has not made any inquiry or the Magistrate has not applied his mind to the facts before him. The inquiry contemplated under section 202 of Cr.P.C. is not at all a roving inquiry or a mini trial. What is necessary is that the learned Magistrate is

aware of the facts that the accused persons are not residing in his jurisdiction and despite that, the Magistrate while issuing process, has taken necessary precautions like going through the documents, the agreements in the present case which are executed in Mumbai and thus the Magistrate has clearly satisfied himself after conducting inquiry, which the Magistrate found to be necessary. At the cost of repetition, it may be stated that the recording of evidence of the witnesses in inquiry under section 202 Cr.P.C. is not at all a “must” in each and every case, especially in a case under section 138 of N.I.Act, which is based mostly on documents. The documents produced in the court may also be sufficient to satisfy the Magistrate. In the instant case, the documents were more than speaking and, therefore, after going through these documents and also the affidavit and verification statement of the complainant and after satisfying himself about the requisite ingredients, the Magistrate has issued process. In my considered opinion, the order of issue of process therefore, cannot be challenged on the ground that the necessary inquiry under section 202 of Cr.P.C. has not carried out in the instant case.

13] Thus, as regards accused Nos. 6 to 9, who are the executive directors, the learned Counsel for the petitioner has fairly conceded that the process issued against them is challenged only on the first ground

that the inquiry under section 202 of Cr.P.C. not being conducted. Once I answer that point holding that such an inquiry was conducted properly, then, their petitions challenging the order of issue process are required to be dismissed.

14] As regards the non executive directors, strenuous attempt is made by the learned Counsel for the petitioner by pointing out to the Annual General Report of the company for the year 2013-14 containing specific averments to the effect that they are appointed as independent directors of the company to hold office for a particular period from the conclusion of annual general meeting. According to the learned Counsel for the petitioner, if these directors were appointed only in respect of their particular expertise in the specific field and they were non executive and independent directors of the company, it follows that they were not in charge of day to day affairs of the company and, therefore, they cannot be held liable for the dishonour of the cheques.

15] Now the law relating to the vicarious liability of the Directors, in respect of offences punishable under section 138 of the N.I. Act for dishonour of the cheque, is contained in section 141 of the N.I. Act itself, which reads as follows:-

“Section 141 :- Offences by companies.—(1) If the person committing an offence under Section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence. Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.— For the purposes of this section,—

(a) ‘company’ means any body corporate and includes a firm or other association of individuals; and

(b) ‘director’, in relation to a firm, means a partner in the firm.”

15] The Apex Court has in its plethora of decisions considered the necessary requirements and ingredients of this section. Learned Counsel

for the petitioner has particularly relied upon the decision of the Supreme Court in the case of National Small Industries Corporation Ltd. Vs. Harmeet Singh Paintal and Ors., reported in (2010) 3 S.C.C. 330. In this decision, the Supreme Court has, after taking review of all its earlier decisions and considering the provisions of section 141 of N.I.Act, summarised the following principles:-

“25) From the above discussion, the following principles emerge :

(i) The primary responsibility is on the complainant to make specific averments as are required under the law in the complaint so as to make the accused vicariously liable. For fastening the criminal liability, there is no presumption that every Director knows about the transaction.

(ii) Section 141 does not make all the Directors liable for the offence. The criminal liability can be fastened only on those who, at the time of the commission of the offence, were in charge of and were responsible for the conduct of the business of the company.

(iii) Vicarious liability can be inferred against a company registered or incorporated under the Companies Act, 1956 only if the requisite statements, which are required to be averred in the complaint/petition, are made so as to make accused therein vicariously liable for offence committed by company along with averments in the petition containing that accused were in-charge of and responsible for the business of the company and by virtue of their position they are liable to be proceeded with.

(iv) Vicarious liability on the part of a person must be pleaded and proved and not inferred.

(v) If accused is Managing Director or Joint Managing

Director then it is not necessary to make specific averment in the complaint and by virtue of their position they are liable to be proceeded with.

(vi) If accused is a Director or an Officer of a company who signed the cheques on behalf of the company then also it is not necessary to make specific averment in complaint.

(vii) The person sought to be made liable should be in-charge of and responsible for the conduct of the business of the company at the relevant time. This has to be averred as a fact as there is no deemed liability of a Director in such cases.

16] This legal position was again discussed and analysed in the latest decision of the Supreme Court in Gunmala Sales Pvt. Ltd. Vs. Anu Mehta, reported in A.I.R. 2015 S.C. 1072. In this authority the Supreme Court has considered even the above said decision in National Small Industries and has further taken note of its judgement in N.Rangachari Vs. Bharat Sanchar Nigam Limited reported in 2007 ALL M.R. (cri) 1437 (S.C). Following two specific questions were raised for consideration in this case:-

(i) Whether the Directors can be prosecuted on the bald assertion made in the complaint, that “the Directors thereof and were at the time when the offence committed in charge of and were responsible for the conduct and day to day business of the said accused No.1 Company”

(ii) Whether the Director who has resigned can be prosecuted after his resignation has been accepted by the Board of the Directors of the Company”

While answering these questions, the Apex Court in para 33 of its judgement summarised its conclusions as follows:-

“33.

a) 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;

b) 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.

c) 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, uncontrovertible 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, uncontrovertible 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;

d) 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 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. "

17] Thus, the legal position is to the effect that if the directors are to be brought within the purview of section 141 of the N.I.Act, there must be a basic averment made in the complaint that the said Director was in charge of and responsible for the conduct of business of the company at the relevant time when the offence was committed. If such a basic averment is made in the complaint, then, the Magistrate can issue process against him. If any petition is filed under section 482 of the Code for quashing of the complaint by the Director, the High Court may in the facts of the particular case on a over all reading of the complaint refuse to

quash the complaint because the complaint contains basic averment which is sufficient to make out a case against the Director. One exception is made thereto and it pertains to a case when the High Court comes across some unimpeachable, uncontrovertible 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. In that situation only, the High Court may, in its inherent powers under section 482 Cr.P.C. quash the process. The Supreme Court has illustrated two such situations. One when the Director is suffering with terminal illness and, therefore, bedridden at the relevant time or when the Director had resigned long before issuance of the cheque. The Supreme Court has also made it clear that the High Court can use its inherent power of quashing the process under section 482 of the Code sparingly and with great circumspection to prevent inter alia abuse of the process of court. Therefore, the High Court at this stage can not conduct mini trial or roving inquiry, though nothing prevents it from taking some unimpeachable evidence or totally acceptable circumstances into account which may lead it to conclude that no trial is necessary. In that eventuality, the High Court may quash the process.

18] In the backdrop of this legal position, if averments in the complaint

in the present case are looked into, then, it can be seen that respondent No.1 complainant has made following averments:-

“Accused No.1 is a company incorporated under the provisions of Companies Act, 1956. Accused No.5 is the Managing Director of accused No.1. Accused No.2 to 4 and 8 are whole time directors of the company and accused Nos. 6, 7 and 9 are Directors of the accused No.1 company. That all of them are thus in charge of and responsible for the day to day affairs of the conduct and management of the business of the company and are also authorised signatory of the accused No.1 company, which is evidence from the information provided by accused No.1 company to the Registrar of Companies and which information is available on the Government website of Ministry of Corporate Affairs.”

19] These averments are, if juxtaposed with the observations made by the Apex Court in *Gunmala Sales* (supra) then, needless to say that they are satisfying clause 1 of para 33. In the complaint, thus, there is a basic averment that these petitioners are directors and were in charge of and responsible for the conduct and business of the company at the relevant time when the offence was committed. Once these averments are appearing in the complaint, then, as held by the Apex Court, the Magistrate was legally correct and justified in issuing process against the petitioners. In view thereof, no illegality or impropriety can be found in the impugned order of the learned Magistrate in issuing process against the petitioners, because as held by the Apex Court itself, the complaints contained basic averments which are sufficient to make out a case

against the Directors. As a result, this Court is expected to be slow and use its power with great circumspection in quashing the process against the petitioner. No doubt, this Court can do it provided some unimpeachable or uncontrovertible evidence which is beyond suspicion or doubt or totally acceptable circumstances which indicate that petitioners could not have been concerned with the issuance of cheques is produced on record.

20] In this case, however the only ground on which the petitioners are seeking quashing of issuance of process order is that they were appointed as independent and non executive directors, in view of their expertise in particular field. However, the ROC record which is produced along with the complaint at Annexure B does not make any such distinction. It nowhere says that these petitioners were appointed only as non executive directors or nominated directors and they are not full time directors and as such not in charge of the day to day affairs of the company. As rightly pointed out by respondent No.1, Section 141 of N.I. Act also does not make any distinction between the Directors and non executive directors. It only exempts from its purview the director who is nominated by virtue of his office or employment in central Government or State Government etc. But Section 141 of N.I. Act does not make distinction between the directors and executive directors. It will be an

internal affair of the company as to whether a particular director is an executive director or otherwise. General Public or complainant is not supposed to be aware of the same, especially in view of the information which was published on the website also does not make such distinction. Therefore, on this ground, it cannot be said that process issued against these petitioners who claim to be non executive directors is liable to be quashed. After all it is a matter of leading evidence, to be proved and disproved, at the time of trial. It is too early a stage to quash the proceedings simply on the ground that they are non executive directors, when the law does not make any such distinction between the Director and non executive director. No unimpeachable or uncontrovertible evidence is produced on record to show that issuance of process against them is abuse of the process of law or of court.

21] As regards accused No.9 it is urged that he has already resigned from the Board of Directors on 26th September 2014 and, therefore, when the disputed cheques were issued or dishonoured, he was no more the director and hence, he cannot be fastened with the vicarious liability. Reliance is also placed on the exception made by the Apex Court in the case of Gunmala Sales (supra), in respect of a director who has already resigned long before issuance of cheque. According to the Apex Court, if such unimpeachable and uncontroverted evidence is brought on record to

to show that he has already resigned long before issuance of cheque, then, the high court may quash the process issued against such a director. According to the learned Counsel for the petitioner, Form 20-B produced on record clearly goes to prove that accused No.9 Purshottam has resigned from the Board of Directors on 26th September 2014. The learned Counsel for the respondent No.1 has however pointed out that this form was not filed within the stipulated period from the date of resignation or within 15 days from the AGM and, therefore, it appears to have been prepared subsequently. Further, he has also pointed out to the records of ROC wherein the name of the accused No.9, Purshotthaman was still appearing as a Director, even though the extract thereof was obtained on 17th April 2015.

22] In view of these facts on record and when the tendering of resignation by accused No.9 – petitioner is a disputed question of fact, it cannot be said that there is any unimpeachable or uncontroverted evidence to prove that accused No.9 has resigned long before issuance of cheque or there is uncontrovertible evidence to prove that he was no more a director in the company at the time of issuance of cheques. The very fact of his resignation from the Board of Directors of the company being in dispute, evidence is required to be laid to prove it. Therefore, as held by the Apex Court in the aforestated case of Gunmala Sales, since

there is no unimpeachable and uncontrovertible evidence on record which can be called as beyond suspicion or doubt, this court should be slow and refuse to exercise its discretion in quashing of the complaint. The Apex Court has very categorically laid down that in the absence of any uncontrovertible and unimpeachable evidence the complaint cannot be quashed and, therefore, having regard to all the facts on record, it has to be held that these writ petitions are devoid of merits and hence need to be dismissed. The writ petitions accordingly stand dismissed.

(JUDGE)