

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3188 OF 2014

Mrs. Lata Pramod Dave,]
Aged : 42 Years,]
R/at EC-58, A-302,]
Mangal Geet Co-op. Hsg. Society Ltd.,]
Evershine City, Vasai (East), Thane-401201.] Petitioner

Versus

1. M/s. Mode Export Private Limited,]
having registered office at Gala No.455,]
Shah & Nahar Industrial Estate,]
Dhanraj Mills Compound,]
Sitaram Jadhav Marg, Lower Parel,]
Mumbai – 400 013.]
]]
2. The State of Maharashtra] Respondents

Mr. Yashpal Thakur, i/by M/s. PKA Advocates, for
the Petitioner.

Mr. Kapil Dave, i/by Mr. Santosh Thakur, for
Respondent No.1.

Mrs. H.J. Dedia, A.P.P., for Respondent No.2-
State.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

RESERVED ON : 1ST MARCH 2016.

PRONOUNCED ON : 17TH MARCH 2016.

JUDGMENT :

1. Rule. Rule is made returnable forthwith, by consent.
2. Heard learned counsel for both the parties and learned A.P.P. for the
Respondent No.2-State.

3. By this Petition, preferred under Section 482 of Cr.P.C. and Article 227 of Constitution of India, Petitioner challenges the order dated 16th September 2013 passed by Metropolitan Magistrate, 7th Court at Dadar, Mumbai, in Criminal Complaint No.1675/SS/2013 of issuing process against her for the offence punishable under Section 138 r/w. 141 of Negotiable Instruments Act.

4. Facts of the Petition are to the effect that, Respondent No.1 herein had, on the request of Original Accused No.2, advanced financial facilities by way of Inter Corporate Deposit for the Accused No.1 i.e. M/s. Swajay Finance Private Limited to the extent of Rs.1,50,00,000/-. Against the said Inter Corporate Deposit availed by Accused No.1, Accused No.2 pledged 2,25,000 Shares of M/s. Usher Agro Limited with Respondent No.1. Accordingly, a Loan Agreement was executed by and between Respondent No.1 and Accused No.1 on 13th August 2010. The period stipulated in the said Loan Agreement was, on the request of Accused No.2, extended from time to time and finally it was renewed for 180 days from 27th August 2012 to 26th February 2013 by virtue of a Loan Agreement executed on 5th September 2012. As per the terms of the Loan Agreement, Accused No.1 issued seven post dated cheques in favour of Respondent No.1 as follows :-

Sr. No.	Cheque No.	Dated	Amount (in Rs.)	Drawn on Bank and Branch
1	952596	27.09.2012	2,70,000/-	Indian Bank, Vasai Branch, Thane, Maharashtra.
2	952597	27.10.2012	2,70,000/-	-- do --
3	952598	27.11.2012	2,70,000/-	-- do --
4	952599	27.12.2012	2,70,000/-	-- do --
5	952600	27.01.2013	2,70,000/-	-- do --
6	952601	27.02.2013	2,70,000/-	-- do --
7	952611	27.02.2013	1,50,00,000/-	-- do --

5. Out of these 7 post dated cheques, 6 cheques of the amount of Rs.2,70,000/- each were honoured, when presented for payment by Respondent No.1. However, the last cheque bearing No.952611 for the amount of Rs.1,50,00,000/- came to be dishonoured for the reason *"Payment Stopped by Drawer"*, vide Bank Memo dated 6th March 2013. Hence, after issuance of statutory demand notice dated 4th April 2013, Respondent No.1 filed complaint under Section 138 r/w. 141 of Negotiable Instruments Act against Accused No.1 - M/s. Swajay Finance Private Limited and its three Directors, including Managing Director – Vinod Kumar Chaturvedi (Accused No.2) the present Petitioner and her husband-Pramod Dave.

6. On this complaint, after recording verification of the representative of Respondent No.1, the Trial Court conducted requisite inquiry under

Section 202 of Cr.P.C. and on being satisfied with the material produced on record, the Trial Court was pleased to issue process against all the four Accused vide its order dated 16th September 2013.

7. Being aggrieved by the same, Original Accused No.4 - the present Petitioner has preferred this Writ Petition contending, inter alia, that she has ceased to be the Director of Accused No.1-Company w.e.f. 1st January 2013, in view of the resignation letter tendered by her to the said Company. Therefore, at the relevant time, when the offence was committed, she was not on the Board of Directors. Even during her tenure as Director, she had neither executed, nor signed any document on behalf of the Company. In support of her contention, the Petitioner has relied upon her letter of resignation dated 1st January 2013, which bears the acknowledgement and endorsement of Accused No.1-Company of receipt of her resignation on the same date. She has also produced on record the copy of "Form-32" and Annual Return duly filled by Accused No.1 with the Registrar of Companies, Mumbai, which, according to learned counsel for the Petitioner, constitute prima facie evidence with regard to the Petitioner's resignation w.e.f. 1st January 2013.

8. It is urged by learned counsel for the Petitioner that, once the Petitioner has duly discharged her obligation as a Director by tendering

resignation letter dated 1st January 2013 and expressed her desire to discontinue with Accused No.1 – Company and once her letter of resignation is also duly accepted and acted upon and also found reflected in “Form-32” and Annual Return of Accused No.1 - Company, she can no more be held liable for any of the acts committed by Accused No.1 - Company or its Directors and, therefore, issuance of process against her for dishonour of the cheque, which took place subsequent to her resignation, is clearly an abuse of the process of law. Learned counsel for the Petitioner, therefore, by relying upon the various authorities of the Apex Court and this Court, has strenuously urged for quashing of process issued against the Petitioner by the Trial Court.

9. Per contra, learned counsel for Respondent No.1 has fully supported the impugned order of the Trial Court by contending, inter alia, that the complaint filed before the Trial Court contains sufficient averments, as required under Section 141 of Negotiable Instruments Act. The contents of the complaint clearly show that the Petitioner herein, along with the other Directors, actively participated in negotiation and in execution of the documents in respect of the loan transaction. Moreover, at the relevant time, the Petitioner was in-charge of and responsible for the conduct of the business of Accused No.1 – Company. It is, therefore, urged that, on the basis of these averments in the complaint, the Trial

Court has rightly issued process against the Petitioner. Hence, it will not be proper on the part of this Court, in exercise of its powers under Section 482 of Cr.P.C. or Article 227 of Constitution of India, to quash the process issued against the Petitioner, as, prima facie, no illegality, impropriety, much less, perversity is found in the impugned order of the Trial Court.

10. As to the alleged resignation tendered by the Petitioner from the post of 'Director', it is submitted that it was subsequent to the transaction in question and also subsequent to the issuance of post dated cheques. Moreover, the alleged resignation is also a disputed fact as there is every reason to believe that it was ante-dated. The copy of the Resolution passed by Accused No.1 - Company accepting her resignation, is not produced on record. Hence, according to learned counsel for Respondent No.1, in the absence of any uncontrovertible and unimpeachable evidence produced on record to prove that, at the relevant time, when the loan transaction took place, or, when the disputed cheque was issued, the Petitioner was not the Director of Accused No.1 - Company, the process issued against her by the Trial Court cannot be quashed at the threshold itself. In support of his submissions, learned counsel for Respondent No.1 has also relied upon various authorities, mainly, that of the latest decision of the Apex Court in ***Gunmala Sales Private Ltd. Vs. Anu Mehta, AIR 2015 SC 1072.***

11. Having heard learned counsel for both the parties, it has to be stated that the law relating to the question involved in this Writ Petition is no more *res integra*. As Section 138 of Negotiable Instruments Act has converted civil liability for dishonour of cheque into penal liability and Section 141 of the Negotiable Instruments Act casts vicarious liability on the Director of the Company, how to deal with the said liability has always been a vexed question and has engaged the attention of the higher Courts since its enactment. As a result, there is plethora of case law on the point, *as to whether mere assertion made in the complaint that the said Director, at the relevant time, was in-charge of and responsible for the conduct and day-to-day business of the Company*, is sufficient or not is debated time and again. These days the Courts have also to deal with one more aspect as to the loop-hole found out by the Directors of resigning from the directorship, in order to avoid this liability. Therefore, the second question which has engaged the attention of the Courts is, *as to whether the Director, who has resigned, can be prosecuted after his resignation has been accepted by the Board of the Directors of the Company?* Deciding this question, at the stage when the process issued against such Director is requested to be quashed, has however become more complex as it involves factual aspects as to whether the fact of resignation is undisputed or challenged on the count that the resignation

is not given on the date on which it is alleged to be tendered. The High Court, therefore, in the writ jurisdiction, is also called upon to enter into the questions, *whether the resignation is ante-dated?; whether the letter of resignation simplicitor can constitute an uncontrovertible or unimpeachable evidence so as to quash the process issued against the concerned Director?* The Court is, therefore, also required to consider other factual aspects, like, when Form No.32 was tendered to Registrar of Companies, whether Resolution of the Board of Directors accepting the resignation was passed and the Annual Return filed by the concerned Company. The instant case involves all these factual aspects.

12. Thus, the necessary questions posed before this Court in this Petition for deciding the question whether process issued against the Petitioner by the Trial Court is just, legal and correct, are two, firstly, *whether the Director can be prosecuted on the bald assertions made in the complaint that, at the relevant time, when the offence was committed, he or she was in-charge of and responsible for the conduct and day-to-day business of Accused No.1-Company?*, and, secondly, *whether Petitioner-Director, who has allegedly resigned before the cheque came to be dishonoured, can be prosecuted after her resignation has been accepted by the Board of Directors of Accused No.1-Company?*.

13. In order to answer these two questions, it would be enlightening to reproduce the provisions of Section 141 of Negotiable Instruments Act, which read as follows :-

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.

(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 purpose of this section

- (a) “company” means any body corporate and includes a firm or other association of individuals; and*
- (b) “director”, in relating to a firm, means a partner in the firm.*

14. The Apex Court has occasion to deal with Section 141 of the Negotiable Instruments Act on any number of occasions, its landmark

decision being in the case of ***SMS Pharmaceuticals Limited Vs. Neeta Bhalla & Anr., (2005) 8 SCC 89***, which still holds the ground. As per the law laid down in this decision, there has to be specific averments in the complaint that the person, who is sought to be made liable, was in-charge of and responsible to the Company for the conduct of the business of the Company. It was held therein that, there has to be specific averments to that effect, as a matter of fact, as there is no deemed liability of Director in such cases. At the same time, it is not incumbent on the Complainant to elaborate in the complaint the role played by each of the Directors in the transaction forming the subject matter of the complaint, as the individual role of the Director is exclusively within the realm of internal management of the Company. At the initial stage of the complaint, therefore, it would be unreasonable to expect the Complainant to elaborate specific role played by the Director in the transaction forming the subject matter of the complaint.

15. The Apex Court has, in its latest decision of ***Gunmala Sales Private Ltd. (Supra)***, again taken the review of its all earlier Judgments, including that of ***SMS Pharmaceuticals Ltd. (Supra)***; ***K.K. Ahuja Vs. V.K. Arora & Anr., (2009) 10 SCC 48***; ***National Small Industries Corporation Limited Vs. Harmeet Singh Paintal & Anr., (2010) 3 SCC 330***; ***N. Rangachari Vs. Bharat Sanchar Nigam Ltd., (2007) 5 SCC 108***,

and so many of its earlier decisions and was pleased to summarize its conclusions as follows :-

33. *We may summarize our conclusions as follows :*

- (a) Once in a complaint filed under Section 138 read with Section 141 of the N.I. 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 formula 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.”

16. In this legal back-drop, if one considers the averments in the complaint of the present case, they are in para No.2 of the complaint, to the effect that, *“Accused Nos.3 and 4 viz. Mr. Pramod Dave and Mrs. Lata Pramod Dave are Directors of the Accused No.1 Company. They were, as directed and instructed by Mr. Vinod Kumar Chaturvedi, authorized to sign and execute documents, loan agreement, pledge agreement, demand promissory note and such other documents, which were required for the purpose of taking ICD from Complainant Company and to do all such acts, deeds and things as may be considered necessary in this regard and also the Accused No.3 viz Mr. Pramod Dave is the signatory of the dishonoured cheque. Mr. Vinod Kumar Chaturvedi and Mr. Pramod Dave and Mrs. Lata Pramod Dave are the persons who have actively*

participated in the negotiation and or execution of documents with the Complainant Company and their officials in respect of loan transaction. Hence the Accused Nos.2 to 4 were in charge of and responsible for the conduct of the business at relevant time when the offence was committed by the Accused. They are responsible for the issuance of the cheque which is subject matter of the present complaint and so also for their dishonour. They failed and neglected to exercise enough care and caution to ensure that the cheque issued by the Accused Company in discharge of legally enforceable debts / liability are honoured upon being presented for encashment by the Complainant and hence they are liable for their prosecution under Section 138 with the aid of Section 141 of the Negotiable Instruments Act, 1881, as amended.”

17. Thus, a cursory glance to the averments made in the complaint vis-a-vis the law laid down by the Apex Court in Clauses (a) and (b) of Para No.33 of its conclusion, makes it clear that those averments are sufficient for the Magistrate to issue process against the Petitioner. Therefore, at this stage, no fault can be found in the order passed by the Magistrate of issuing process against the Petitioner, as the Magistrate was justified in doing so. Hence, as on overall reading of the complaint, those averments are sufficient to make out case against the Petitioner, this Court should, as held by the Apex Court in the case of **Gunmala Sales Private Ltd.**

(Supra), refuse to quash the complaint under Section 482 of Cr.P.C.

18. In view of clause (c) of Para 33 of the Apex Court Judgment, this Court may, despite presence of the basic averments, quash the complaint, if it comes across some unimpeachable and uncontrovertible evidence, which is beyond suspicion or doubt or totally acceptable circumstances which may clearly indicate that the Petitioner could not have been concerned with the issuance of cheques and asking her to stand the trial would be abuse of the process of the Court. Like, for instance, a case of a Director suffering from a terminal illness, who was bed-ridden at the relevant time or a Director who had resigned long before issuance of cheques. However, as emphasized by the Apex Court, such circumstance must be established on the basis of unimpeachable and uncontrovertible evidence, which is beyond suspicion or doubt. Thus, according to Apex Court, though there is no restriction on the High Court's powers under Section 482 of Cr.P.C., those powers are always required to be used sparingly and with great circumspection to prevent, *inter alia*, the abuse of the process of the Court.

19. Here in the case, the Petitioner is asking this Court to quash the process issued against her on the ground that, on the date when the cheque in question was presented to the Bank and came to be

dishonoured, she was no more the Director of the Company as she has already resigned from the Company. According to Petitioner, she has tendered her resignation on 1st January 2013 and it was received by the Company on the same date. She has also produced on record copy of her resignation letter, Annual Return and Form-32 to substantiate her case that she has tendered her resignation w.e.f. 1st January 2013; it was accepted by the Company and accordingly given effect to by the Registrar of Companies.

20. If the fact of her tendering the resignation was not disputed and there was uncontrovertible and unimpeachable evidence on record to prima facie prove that she has actually tendered the resignation on the date on which it was given i.e. 1st January 2013, then, as held in the above said authority of ***Gunmala Sales Private Ltd. (Supra)***, it was easy for this Court to exercise its powers under Section 482 of Cr.P.C. to quash the process issued against her. Unfortunately, however, this fact is seriously disputed by learned counsel for Respondent No.1 and in my considered opinion, rightly so, because, though her resignation letter apparently bears the date 1st January 2013 and it is also alleged to be received by the Company on 1st January 2013, the other documents produced on record, prima facie, go to prove that it was not tendered

actually on that day but subsequent thereto. Just in order to escape from the clutches of Section 141 of Negotiable Instruments Act, it is shown ante-dated. It is pertinent to note that, if Petitioner had really tendered her resignation on 1st January 2013 itself, on the receipt of the statutory demand notice dated 4th April 2013 issued by Respondent No.1, she would have immediately replied to it bringing on record the fact that she has already resigned from the Company and hence no more liable for prosecution.

21. It is also pertinent to note that, none of the Accused, even the Accused No.1-Company also, replied to the statutory demand notice bringing the fact of her resignation to the notice of Respondent No.1. It is also worth to remember that Accused No.3 Pramod Dave, is her husband and also the Director of the Company. Therefore, the act of her alleged resignation was bound to be within his knowledge and knowledge of their Company. If she had really resigned on 1st January 2013, they would have replied to the statutory demand notice bringing this fact on record. However, none of them have done so, which makes it necessary to draw an inference that, even till April, 2013, when the statutory demand notice was issued, there was no such resignation of Petitioner on record, nor it was acted upon.

22. Further it is pertinent to note that the summons of the complaint was issued to the Petitioner on the address of Accused No.1, being the Director of the Company, and it is not her case that she has not received it on the said address. Therefore, on the date of filing of the complaint and issuance of process against her also, the fact of her alleged resignation w.e.f. 1st January 2013 was not at all acted upon; the apparent reason being her resignation letter is ante-dated.

23. Moreover, the own document produced on record by the Petitioner herself, which is the Receipt G.A.R.7 issued by Ministry of Corporate Affairs, proves that Form No.32, along with Annual Return, was submitted to the Registrar of Companies on 22nd August 2013 and not immediately on the receipt of her alleged resignation in January 2013. In this respect it is material to note that, though the copy of the Annual Return is produced on record by the Petitioner, the copy of the Resolution passed by the Board of Directors of Accused No.1-Company accepting her resignation letter is not produced on record, to show that it was accepted and acted upon much before the dishonour of the cheque. It is also worth to note that Form No.32 was submitted on 22nd August 2013 along with the penal charges for late submission.

24. Thus, at this prima facie stage, there is no evidence on record,

which can be called as unimpeachable or uncontrovertible, or any acceptable circumstances, as laid down by the Apex Court in ***Gunmala Sales Private Ltd. (Supra)***, to quash the process issued against the Petitioner.

25. Furthermore, there is much substance in the submission advanced by learned counsel for Respondent No.1 that, the relevant period for deciding the liability of the Director for the act committed by the Company is not only when the cheque was dishonoured, but also when the disputed transaction was entered into, and from time to time thereafter like at the time of issuance of the cheque in question, presentation of said cheque in Bank etc. In the instant case, the averments in the complaint go to reveal that the transaction in question was entered into by Accused No.1 with Respondent No.1 in the year 2010 itself. It was renewed in 2012 upto 2013. There were totally seven disputed cheques issued by Accused No.1, as stated in the complaint, which were post-dated. They were issued at one and same time, though bearing different dates. Out of them, three cheques are after the alleged date of her resignation, whereas, three cheques were before the alleged date of her resignation. Out of those three cheques bearing the date, which is after the date of her resignation, two were honoured. The third cheque, which is disputed one, though dated 27th January 2013, it being a post-dated cheque, it has to be

inferred that it was issued along with six other cheques and the first post-dated cheque is dated 27th September 2012; therefore, necessarily implying that, when these post-dated cheques, including the dispute cheque, were issued, Petitioner was very much the Director of the Company. Therefore, from this angle also, the Petitioner cannot get reed of her liability.

26. The offence under Section 138 of Negotiable Instruments Act may get completed only on expiration of fifteen days from the receipt of the statutory demand notice. However, it consists of various acts and constituents that give rise to the commission of offence. Some of those acts are the disputed transaction, the issuance of the cheque, the dishonour of the cheque by the Bank and, lastly, the issuance of notice. The dates of all these acts are relevant, as these acts cannot be separated from one another. They together constitute the offence under Section 138 of Negotiable Instruments Act. It is the combination of all these acts, which gives rise to the commission of the offence under the said Section. Therefore, if the relevant date for attracting vicarious liability of the Director under Section 141 of the Negotiable Instruments Act is, “*at the time the offence was committed*”, then, as the offence of Section 138 of Negotiable Instruments Act comprises of all these essential acts, majority of these acts in the present case, like the transaction in question

and issuance of cheques took place when the Petitioner was very much Director of the Company. Hence, she cannot escape of the liability from this angle also. In this view of the matter, it cannot be said that the Petitioner was not the Director when the offence was committed. Once this is so, she cannot avoid facing prosecution only on the ground of her having ceased to be the Director, when the last few acts of presentation of the cheque to the Bank and its dishonour took place.

27. Thus, when the correctness of the contents of Form No.32 that the Petitioner has tendered her resignation on 1st January 2013 is disputed and when averments in the complaint are, prima facie, sufficient to prove involvement of the Petitioner in the alleged offence, the inherent powers of the High Court under Section 482 of Cr.P.C., which are to be invoked sparingly and in exceptional circumstances, could not be exercised in the instant case to quash the prosecution initiated against the Petitioner.

28. As to the authority relied upon by learned counsel for the Petitioner in ***Saumil Dilip Mehta Vs. State of Maharashtra & Ors., AIR 2002 Bom. 194***, it pertains to Section 303(2) of the Companies Act, wherein the resignation was accepted by the Board of Directors and there was evidence to that effect. Therefore, it was held that, filing of Form No.32 and completing other requirements of Company Law is the duty of the

Company Secretary and the retired Director is not liable for liability incurred by the Company after the date of acceptance of his resignation. In the instant case, there is no uncontrovertible evidence on record to show the acceptance of the Petitioner's resignation by the Company on the date on which it is alleged to be tendered.

29. Even as to the authority of ***Naveen Kumar Aggarwal Vs. M/s. Dove Creation Pvt. Ltd., 2016 ALL MR (Cri) JOURNAL 113***, of Punjab & Haryana High Court, there was evidence to prove that the resignation of the Director was accepted by the Board of Directors, though there was delay in communication to the Registrar of Companies. Here in the case, no such evidence is produced on record, which can be called as unimpeachable to prove that the resignation of the Petitioner was accepted on the date as alleged by her.

30. The other two authorities of ***Amit Mohan Inder Mohan Sharma Vs. Mamta Agency & Ors., 2007 (3) Mh.L.J. 198***, and ***Pooja Ravinder Devidasani Vs. State of Maharashtra, MANU/SC/1177/2014***, are also relating to the facts of those particular cases and hence they cannot be made applicable to the instant case.

31. Therefore, having regard to all the facts, circumstances and relevant provisions of law on record, in the light of the submissions

advanced by the learned counsel for the parties, this Court is of the considered opinion that, the Petitioner has failed to make out the case for quashing of process issued against her for the offence punishable under Section 138 read with Section 141 of Negotiable Instruments Act.

32. The Petition is, therefore, dismissed. Rule is discharged accordingly.

33. However, it is made expressly clear that whatever observations made here-in-above as to the merits of the case are only for the purpose of deciding this Writ Petition and the Trial Court is not to be influenced by them in any way. All the contentions of the parties are expressly kept open.

[DR. SHALINI PHANSALKAR-JOSHI, J.]