

In the High Court of Punjab and Haryana at Chandigarh
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(1) Criminal Misc. No.M-29805 of 2016
.....

Date of decision:27.10.2017

Jindal Cotex Ltd. and another
.....
...Petitioners
v.
M/s Vinod Cotton Corporation
.....
...Respondent

(2) Criminal Misc. No.M-30119 of 2016
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Jindal Cotex Ltd.
.....
...Petitioner
v.
M/s Vinod Cotton Corporation
.....
...Respondent

(3) Criminal Misc. No.M-30120 of 2016
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Jindal Cotex Ltd.
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...Petitioner
v.
M/s Vinod Cotton Corporation
.....
...Respondent

(4) Criminal Misc. No.M-30121 of 2016
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Jindal Cotex Ltd. and another
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...Petitioners
v.
M/s Vinod Cotton Corporation
.....
...Respondent

(5) Criminal Misc. No.M-30142 of 2016
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Jindal Cotex Ltd.
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...Petitioner
v.
M/s Vinod Cotton Corporation

...Respondent

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(6) Criminal Misc. No.M-30145 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(7) Criminal Misc. No.M-30146 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(8) Criminal Misc. No.M-30147 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(9) Criminal Misc. No.M-30160 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(10) Criminal Misc. No.M-30168 of 2016

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Jindal Cotex Ltd. and another

...Petitioners

[3]

v.

M/s Vinod Cotton Corporation

...Respondent

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(11) Criminal Misc. No.M-30184 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(12) Criminal Misc. No.M-30185 of 2016

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Jindal Cotex Ltd. and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(13) Criminal Misc. No.M-30186 of 2016

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Jindal Cotex Ltd.

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(14) Criminal Misc. No.M-30787 of 2016

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Jindal Cotex Ltd. and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(15) Criminal Misc. No.M-31507 of 2016

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Jindal Cotex Ltd. and another
...Petitioners
v.
M/s Vinod Cotton Corporation
...Respondent
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(16) Criminal Misc. No.M-31528 of 2016
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Jindal Cotex Ltd. and another
...Petitioners
v.
M/s Vinod Cotton Corporation
...Respondent
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(17) Criminal Misc. No.M-31533 of 2016
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Jindal Cotex Ltd. and another
...Petitioners
v.
M/s Vinod Cotton Corporation
...Respondent
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(18) Criminal Misc. No.M-31540 of 2016
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Jindal Cotex Ltd. and others
...Petitioners
v.
M/s Vinod Cotton Corporation
...Respondent
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(19) Criminal Misc. No.M-31555 of 2016
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Jindal Cotex Ltd. and others
...Petitioners
v.
M/s Vinod Cotton Corporation
...Respondent
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(20) Criminal Misc. No.M-31557 of 2016

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Jindal Cotex Ltd. and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(21) Criminal Misc. No.M-31558 of 2016

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Jindal Cotex Ltd. and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(22) Criminal Misc. No.M-31559 of 2016

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Jindal Cotex Ltd. and others

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(23) Criminal Misc. No.M-31717 of 2016

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Sahil Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(24) Criminal Misc. No.M-31772 of 2016

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Aman Jindal and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

Cr. Misc. Nos.M-29805 of 2016 etc.
[6]

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(25) Criminal Misc. No.M-31845 of 2016

.....

Aman Jindal and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(26) Criminal Misc. No.M-31850 of 2016

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Sahil Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(27) Criminal Misc. No.M-31900 of 2016

.....

Aman Jindal and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(28) Criminal Misc. No.M-31960 of 2016

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Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(29) Criminal Misc. No.M-31978 of 2016

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Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(30) Criminal Misc. No.M-31989 of 2016

....

Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(31) Criminal Misc. No.M-32009 of 2016

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Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(32) Criminal Misc. No.M-32168 of 2016

.....

Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(33) Criminal Misc. No.M-32183 of 2016

.....

Jindal Cotex Ltd. and another

...Petitioners

v.

Rakesh Aggarwal

...Respondent

....

(34) Criminal Misc. No.M-32194 of 2016

....

Aman Jindal

Cr. Misc. Nos.M-29805 of 2016 etc.
[8]

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(35) Criminal Misc. No.M-32198 of 2016

....

Aman Jindal and another

...Petitioners

v.

M/s Vinod Cotton Corporation

...Respondent

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(36) Criminal Misc. No.M-32208 of 2016

.....

Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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(37) Criminal Misc. No.M-32213 of 2016

.....

Aman Jindal

...Petitioner

v.

M/s Vinod Cotton Corporation

...Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Satya Pal Jain, Senior Advocate with Mr. Gautam Mittal,
Advocate for the petitioners.

Mr. Rajesh Sethi, Mr. Arun Viriwal, Mr. Tushar Gera,
Mr. Karan Bathla and Mr. Rajan Bansal, Advocates for the
respondents.

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Inderjit Singh, J.

This order will dispose of the above mentioned 37 petitions filed under Section 482 Cr.P.C. for quashing criminal complaints No.347, 339, 343, 352, 355, 344, 342, 341, 350, 353, 345 dated 18.12.2015, No.8967 dated 18.12.2014, Nos.349, 354, 348, 356, 358, 337, 338, 351, 346, 340, 342, 347, 354 dated 18.12.2015, No.8967 dated 18.12.2014, Nos.352, 344, 349, 345, 339, 341, 357, 343 dated 18.12.2015, No.353 dated 18.12.2014, Nos.350 and 355 dated 18.12.2015 respectively filed before learned Judicial Magistrate Ist Class, Ludhiana by the respondent against the petitioners, summoning orders issued by the learned JMIC, Ludhiana in the above said complaints, orders dismissing applications for discharge of petitioner No.2 and all subsequent proceedings arising out of the above complaints.

Notice of motion has been issued in the above cases.

Mr. Rajesh Sethi, Mr. Arun Viriwal, Mr. Tushar Gera, Mr. Karan Bathla and Mr. Rajan Bansal, learned Advocates have put in appearance on behalf of the respondents and contested these petitions.

I have heard learned counsel for the petitioners and learned counsel for the respondents and have gone through the record.

At the time of arguments, learned senior counsel assisted by Mr. Gautam Mittal, Advocate has mainly raised three main arguments for quashing of these complaints. Firstly, he argued that the summoning orders passed by the Court below are not speaking orders and on this ground the complaints should be quashed. Learned senior counsel for the petitioners

further argued that the dispute between the parties is purely of civil nature, therefore, the complaints under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') should be quashed. Learned senior counsel further argued that there are different cheques regarding the same transaction and all these cases relate to same transaction but the petitioners have not mentioned in the subsequent cases regarding the the cases filed in the earlier petitions. Therefore, he argued that as per the law laid down by the Hon'ble Supreme Court in Damodar S. Prabhu v. Sayed Babalal H., 2010(2) R.C.R. (Criminal) 851, these complaints are liable to be quashed.

On the other hand, learned counsel for the respondents argued that as per the documents supplied by the petitioners, the liability of more than ₹11 Crores has been admitted. Learned counsel for the respondents further argued that the cheques had been dishonoured which were issued by the accused to discharge legal liability, therefore, the complaints under Section 138 of the NI Act are maintainable and cannot be held as civil dispute. Learned counsel for the respondents further argued that as per the law the summoning order need not be detailed one and speaking order. The only requirement of law is that summoning order being of serious matter, the Court should apply its judicial mind and should not summon the accused in a routine manner. He argued that first of all in Damodar's case (supra), it is no where held that on the violation of not disclosing the other complaint, the complaints can be quashed. At the most, the Hon'ble Supreme Court has stated that the other party can apply to the High Court to transfer all these

complaints to one station and can claim the cost. Learned counsel for the respondents argued that the complainant had filed the complaints at Ludhiana. The learned Judicial Magistrate Ist Class, Ludhiana transferred these cases to the Courts at present station. Then a revision was filed before the High Court by the other party which was dismissed by the High Court. Therefore, he argued that on this ground the complaints are not liable to be quashed.

After hearing learned counsel for the parties, first of all, I find that, in no way, the dispute can be held as of civil nature. Admittedly, there is liability of the accused to pay to the complainant. The learned counsel for the respondents has placed on record statement of account given by the accused showing the liability of more than ₹11 crores. It is admitted fact that the cheques were signed and issued by the accused which on presentation have been dishonoured.

Learned senior counsel for the petitioners has nowhere argued regarding the fact that the cheques are not issued by them or the legal notice was not received by them and the complaints have not been filed within limitation period etc. Therefore, in no way, it can be held that on the dishonouring of the cheques issued by the accused only civil remedy lies and the complaints cannot be filed under Section 138 of the NI Act.

From the record, I find that in the facts and circumstances of the cases the complaints under Section 138 of the NI Act are maintainable and cannot be quashed on this ground.

As regards that the summoning orders are not detailed one, the learned counsel for the respondents placed reliance on the law laid down by

the Hon'ble Supreme Court in U.P. Pollution Control Board v. M/s Mohan Meakins Ltd. and others, 2000 (2) R.C.R. (Criminal) 421, in which in para 6, it was held as under:-

“In a recent decision of the Supreme Court it has been pointed out that the legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a magistrate for passing detailed order while issuing summons vide **Kanti Bhadra Shah vs. State of West Bengal** [2000(1) SCC 722]. The following passage will be apposite in this context:

"If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to write detailed orders at different stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them.

But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial. (Emphasis supplied)”

In view of the law laid down by the Hon'ble Supreme Court in the above judgment, the complaint also cannot be quashed on the ground that summoning order is not detailed one.

I have gone through the summoning orders. A perusal of the summoning orders shows that the Court below has discussed the preliminary evidence though not in detail for summoning the accused. Therefore, this argument of the learned senior counsel for the petitioners also has no merit.

As regards the fact that in the complaints the averments have not been mentioned regarding the earlier complaints, I find that on this ground also the FIRs/complaints cannot be quashed.

In the judgment Damodar S. Prabhu v. Sayed Babalal H. (supra), the Hon'ble Supreme Court has stated that where the complaints are filed at different places qua the same transaction to harass the respondents it amounts to misuse of the process of law. In those circumstances, the Supreme Court has held that the High Court should transfer all these complaints at one place and can put cost upon the complainant etc. But in the present cases, all the complaints have been filed at Ludhiana, which were transferred by the Court to Bathinda and then a revision petition was filed against the transfer and as argued this revision petition was dismissed

by this Court. Therefore, on this ground also the complaints cannot be quashed.

From the above discussion, I find no merit in these petitions and the same are dismissed. The complaints cannot be held as the misuse of process of law and miscarriage of justice.

October 27, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No