

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**C.R.R. 4079 of 2013
with
CRAN 1 of 2014
with
CRAN 2 of 2014
with
CRAN 3 of 2014**

**Ganesh Ranganathan @ R. Ganesh
-Vs-
M/s SREI Infrastructure Finance Ltd.**

For the Petitioner	: Mr. Pawan Kumar Gupta Mr. Avinash Kankani Ms. Sofia Nesar
For the Opposite Party	: Mr. Sourav Chatterjee Mr. Soumya Nag
Heard on	: 03.04.2024, 20.06.2024, 17.02.2025, 15.05.2025, 13.06.2025, 25.07.2025
Judgment on	: 02.09.2025

Ananya Bandyopadhyay, J.:-

1. The instant revisional application was filed by the petitioner praying for quashing of the proceedings pending before the Court of the Learned Metropolitan Magistrate, 12th Court, Calcutta including the Order dated 31.10.2011 passed in connection therewith of Case No. C/24470 of 2011 under Sections 138/141 of the Negotiable Instruments Act, 1881.

2. The petitioner happened to be an erstwhile director of K.S. Oil Ltd., having its office at City Kotwali, Jiwaji Ganj, Morena, 476001, Madhya Pradesh, from which the petitioner had resigned on and from 27.06.2011. Since then, the petitioner had no connection with the business affairs of K.S. Oil Ltd. On 30.09.2011, the opposite party filed a complaint alleging commission of an offence punishable under Sections 138/141 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the said Act") in the Court of the Learned Chief Metropolitan Magistrate, Calcutta, against K.S. Oil Ltd. and thirteen other persons allegedly officials of K.S. Oil Ltd.
3. The petitioner invoked the revisional jurisdiction of the Hon'ble Court seeking quashing of the proceedings in Case No. C/24470 of 2011 under Sections 138/141 of the Negotiable Instruments Act, 1881, pending before the Learned Metropolitan Magistrate, 12th Court, Calcutta, including the order dated 31.10.2011 issuing process against him.
4. The petitioner was only an erstwhile director of K.S. Oils Ltd. and had resigned from directorship on 27.06.2011, prior to issuance of the cheque dated 23.07.2011, which was dishonoured on 29.07.2011. His resignation was duly recorded with the Registrar of Companies. Hence, he had no connection with the company's affairs at the relevant time.
5. The complaint lacked specific averments as to how and in what manner the petitioner was in charge of, and responsible for, conduct of the business of the company.
6. Mere designation as a director, or being a name-lending director, did not attract vicarious liability.

7. The entire transaction had no nexus with the jurisdiction of the Learned Trial Court.
8. The company's office was situated at Morena, Madhya Pradesh; the cheque was drawn on HDFC Bank, New Delhi; and dishonour took place outside Kolkata. Mere presentation of the cheque through the complainant's bank at Kolkata, or issuance of legal notice from Kolkata, could not confer jurisdiction. The term "bank" in Section 138 refers to the drawee bank and not the collecting bank.
9. The petitioner being a resident of Tamil Nadu, beyond the jurisdiction of the Trial Court, the Magistrate was under a statutory obligation under amended Section 202 CrPC (2005) to conduct inquiry or order investigation before issuing process.
10. The Learned Magistrate failed to comply with this mandatory provision and mechanically issued process on 31.10.2011, thereby vitiating the proceedings.
11. As all ingredients of the alleged offence under Section 138 NI Act occurred outside the jurisdiction of the Learned Trial Court, continuation of the proceedings amounted to gross abuse of process of law.
12. The Learned Advocate representing the petitioner submitted as follows:-
 - (i) The present complaint was palpably frivolous, instituted to harass, intimidate, and malign the petitioner. The averments in the complaint were insufficient to attract the ingredients of Section 141 of the Negotiable Instruments Act, 1881 ("the Act").

- (ii) The complaint lacked specific averments as to how the petitioner was in charge of, or responsible for, the conduct of the company's business. Mere designation as a director was insufficient to invoke vicarious liability under Section 141 of the Act. The allegations were inherently improbable and contradictory, incapable of giving rise to a cause for proceeding against the petitioner.
- (iii) The petitioner resigned as a director of the accused company with effect from 27.06.2011, duly recorded by a Board Resolution on 15.07.2011 and reflected in Form 32. The cheque in question was issued subsequently on 23.07.2011 and dishonoured on 29.07.2011, after the petitioner's resignation. The petitioner was not a signatory to the cheque. No statutory notice under Section 138 of the Act was served upon him.
- (iv) The learned Trial Court lacked territorial jurisdiction, since the cheque was drawn on HDFC Bank, New Delhi, by a company having its office at Madhya Pradesh, though deposited for collection at Axis Bank, Kolkata. Mere presentation of cheque at the complainant's bank or issuance of notice from Kolkata did not confer jurisdiction. The relevant "bank" for purposes of Section 138 was the drawee bank of the drawer, not the collecting bank. Hence, the cause of action, if any, arose outside the territorial jurisdiction of the Trial Court.
- (v) The petitioner resided in Tamil Nadu, outside the jurisdiction of the Trial Court. Under the amended Section 202 CrPC (2005

Amendment), where the accused resided beyond jurisdiction, the Magistrate must either conduct an inquiry or direct investigation before issuing process. The Trial Court, while issuing process on 31.10.2011, failed to comply with this statutory mandate, rendering the proceedings void.

(vi) The complainant company had gone into liquidation, and no authority had been shown by the deponent to represent it in the present proceedings.

(vii) Presumption of liability under IPC (Sections 34/120B) could not be imported into proceedings under the NI Act, which was a special enactment with technical offences. Similarly placed co-accused directors had already secured relief from this Hon'ble Court in C.R.R. No. 4191/2011 (Order dated 25.07.2012) and C.R.R. No. 247/2013 (Order dated 16.11.2016). The opposite party had not challenged those orders, which operated as binding precedents.

(viii) Continuation of the instant proceedings against the petitioner was an abuse of the process of law, being legally unsustainable on grounds of lack of territorial jurisdiction, non-compliance with Section 202 CrPC, absence of necessary averments under Section 141 NI Act, and the petitioner's resignation prior to issuance of the cheque. The proceedings deserved to be quashed.

13. The Learned Advocate representing the respondent submitted as follows:-

- (i) The opposite party contended that the petitioner's claims rest on disputed questions of fact within his special knowledge, which cannot be adjudicated in proceedings under Section 482 CrPC.
- (ii) The reliance on Form 32 to establish resignation was objected to, as the document merely records the purported date of resignation, and its authenticity was not tested since the Registrar of Companies was not a party. Even if accepted, Form 32 did not conclusively prove that the petitioner did not subsequently re-associate with the accused company, or that the resignation was not a calculated attempt to evade liability under the Negotiable Instruments Act, 1881 ("NI Act").
- (iii) The petitioner failed to produce the annual returns of subsequent years to substantiate his claim of resignation.
- (iv) It was admitted that the petitioner was a director at the time the accused company obtained the loan. The cheque for ₹100,25,20,548/- was issued in discharge of a legally enforceable debt under Loan Agreement No. THL00138, executed on 23.08.2010, during which time the petitioner was admittedly a director and responsible for the company's affairs. Whether he was liable under Sections 138/141 NI Act could only be determined at trial on the basis of evidence.
- (v) The allegation that the cheque was issued after resignation was rejected as inherently improbable, since the cheque dated 23.07.2011 clearly related to the pre-existing loan agreement of

23.08.2010, entered into while the petitioner was still a director.

The liability, therefore, was a continuing one

- (vi) The complaint contained specific averments that the petitioner, being a director, was in charge of and responsible for the day-to-day business of the company. In law, once such averments exist, the burden shifts upon the accused to disprove them during trial.
- (vii) The opposite party denied the petitioner's challenges on territorial jurisdiction, asserting that the Learned Metropolitan Magistrate, 12th Court, Calcutta had jurisdiction to entertain and try the matter.
- (viii) The objections regarding non-compliance with Section 202 CrPC were also denied as misconceived and unsustainable.
- (ix) It was urged that the petitioner's grounds were based on disputed facts, documents of doubtful evidentiary value, and misconceived legal interpretations, which could not be the basis for quashing proceedings at the threshold.
- (x) Despite these submissions, the Court, upon consideration, held that the continuation of proceedings against the petitioner was not sustainable. The complaint case (C/24470 of 2011) was accordingly quashed by order dated 31.10.2011, and the criminal revision (CRR 4079 of 2013) was allowed, holding that the prosecution had failed to establish its case beyond reasonable doubt.

14. Evidently the petitioner had resigned from the post of Director of K.S. Oil Ltd. on and from 27.06.2011 which was recorded in the Office of the Register of Companies. The allegations in the complaint related to a cheque drawn on 23.07.2011 being dishonoured on 29.07.2011.
15. The complaint lodged by the opposite party did not narrate the specific role of the petitioner to have been involved in the commission of the alleged offence under Section 138 of the Negotiable Instruments Act, moreover, to implicate him vicariously liable under Section 141 of the Negotiable Instruments Act.
16. The complaint did not indicate the role of the petitioner to be a Director responsible for and in-charge of day-to-day affairs of the company to have been directly inculpated. Moreover, the other Directors have already been exonerated of the charges similarly circumstanced with the present petitioner to have been charged under Sections 138/141 of the N.I. Act through orders passed by the Co-ordinate Bench of this Court in CRR 247 of 2013 and CRR 4191 of 2011.
17. In the facts and circumstances of the case along with the absence of specific inculpatory role of the petitioner to constitute the offence under Sections 138/141 of the Negotiable Instruments Act, the instant revisional application being CRR 4079 of 2013 is allowed.
18. Accordingly, the proceedings being Case No. C/24470 of 2011 under Sections 138/141 of the Negotiable Instruments Act, 1881 pending before the Court of the Learned Metropolitan Magistrate, 12th Court, Calcutta

including the Order dated 31.10.2011 passed in connection therewith stands quashed.

19. There is no order as to costs.

20. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.

21. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)