



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4092 OF 2024**

Dinesh Chhotalal Joshi ... Petitioner
versus
State of Maharashtra and Anr. ... Respondents

**WITH
WRIT PETITION NO.4119 OF 2024**

Dinesh Chhotalal Joshi ... Petitioner
versus
State of Maharashtra and Anr. ... Respondents

**WITH
WRIT PETITION NO.4122 OF 2024**

Dinesh Chhotalal Joshi ... Petitioner
versus
State of Maharashtra and Anr. ... Respondents

**WITH
WRIT PETITION NO.4124 OF 2024**

Dinesh Chhotalal Joshi ... Petitioner
versus
State of Maharashtra and Anr. ... Respondents

**WITH
WRIT PETITION NO.4120 OF 2024**

Dinesh Chhotalal Joshi ... Petitioner
versus
State of Maharashtra and Anr. ... Respondents

Mr. Aditya Rai with Mr. Divakar Rai, Mr. Ramchandra Rane, Mr. Vayukumar Tiwari, Mr. Raj Tamhankar, Mr. Yash Desai, for Petitioner.

Mr. Prasanna Malshe, APP for State in WP Nos.4092 and 4119 of 2024.

Mrs. Rashmi Tendulkar, APP for State in WP Nos.4122 and 4124 of 2024.

CORAM: N.J.JAMADAR, J.

DATE : 6 NOVEMBER 2025

ORDER :

1. WP No.4120 of 2024 is not on board. Upon mentioning, taken on board.
2. Heard the learned Counsel for the Petitioner.
3. The Petitioner, who is arraigned as accused No.2 in the complaints filed by the Respondent No.2 – complainant for the offences punishable under Sections 138 read with 141 of the Negotiable Instruments Act, 1881 (N.I.Act, 1881) takes exception to the judgment and order passed by the learned Additional Sessions Judge, Greater Mumbai, in Revision Applications preferred by the Petitioner, whereby those Revision Applications were dismissed affirming the order of issue of process against the Petitioner and the co-accused for the offence punishable under Sections 138 read with 141 of the N.I.Act, 1881.
4. Mr. Aditya Rai, the learned Counsel for the Petitioner, submitted that the orders passed by the learned Magistrate and the impugned orders dismissing the challenge to the orders of issuance of process passed by the learned Additional Sessions Judge suffer from the vice of manifest illegality and material irregularity in the exercise of the jurisdiction. Learned Counsel advanced a two-pronged submission. Firstly, though the Petitioner had retired from the said firm w.e.f. 1 April 2015 itself, the Petitioner has been roped in as a partner of M/s. A.N.G. Associates, in respect of the cheques issued on 11

November 2021. Secondly, the Petitioner being a resident of an area beyond the local limits of the jurisdiction of the learned Magistrate, 7th Court, Dadar, the failure to conduct an inquiry under Section 202 of the Code of Criminal Procedure, 1973, vitiated the order of issue of process. On both these counts, learned Additional Sessions Judge did not properly appreciate the material on record and the submissions canvassed on behalf of the Petitioner, urged Mr. Rai.

5. Learned Sessions Judge repelled the challenge to the orders of issue of process on the ground that the Petitioner has retired from the accused No.1 firm long back as the Petitioner is the signatory to the cheques along with the co-accused. Invoking the provisions contained in Section 16(3) of the Code, whereunder the jurisdiction of the Metropolitan Magistrates extended throughout the metropolitan area, and the fact that the learned Magistrate had in terms recorded that the complainant had claimed that he did not want to examine any more witnesses, and, thus, it constituted an inquiry within the meaning of Section 202 of the Code, the challenge to the orders of issue of process on the ground of failure to conduct an inquiry under Section 202 of the Code, was negated.

6. Having perused the complaints, orders of issue of process and the impugned orders passed by the learned Additional Sessions Judge, this Court does not find any infirmity in the impugned orders. Incontrovertibly, the

Petitioner is one of the signatories to the subject cheques, which were dishonoured on presentment. It is settled by a catena of decisions that if an accused happens to be the signatory to the cheque, he is clearly responsible for the alleged incriminating act, and, in that case, the complainant is not required to make specific averments in the complaint that such accused was in-charge of and responsible to the company for the conduct of the business of the company or that the offence was committed with the consent, connivance or negligence on the part of such accused.

7. Learned Additional Sessions Judge correctly placed reliance on the judgments of the Apex Court in the cases of **SMS Pharmaceuticals Ltd. V/s. Neeta Bhalla and Ors.**¹ and **Standard Chartered Bank V/s. State of Maharashtra and Ors.**².

8. In the case of **SMS Pharmaceuticals Ltd. (supra)**, the Supreme Court has enunciated in clear and explicit terms that the signatory to the cheque which is dishonoured is clearly responsible for the incriminating act and will be covered by sub-section (2) of Section 141 of the N.I.Act.

9. In the case of **Standard Chartered Bank (supra)**, it was postulated that in the case of a Director or an officer of the company who signed the cheque on behalf of the company, there is no need to make a specific averment that he was in charge of and was responsible to the company, for

1 AIR 2005 SC 3512

2 (2016) 6 SCC 62

the conduct of the business of the company or make any specific allegation about consent, connivance or negligence. The very fact that the dishonoured cheque was signed by him on behalf of the company, would give rise to responsibility under sub-section (2) of Section 141.

10. This being the position in law, the Petitioner cannot draw mileage from the fact that there is material to indicate that the Petitioner had retired from the firm w.e.f. 1 April 2015.

11. On the second count of the failure to conduct an inquiry envisaged by Section 202 of the Code also, learned Sessions Judge has rightly repelled the challenge. In fact, the orders passed by the learned Magistrate indicate that the learned Magistrate was alive to the necessity of the inquiry under Section 202 of the Code, and explicitly recorded that the complainant had filed pursis under Section 202 of the Code, informing the Court that the complainant did not want to examine any other witness and, at that stage, relied upon the documents on record.

12. In this view of the matter, looked at from any perspective, there is no substance in the Petitions.

13. Hence, the Writ Petitions stand dismissed.

(N.J.JAMADAR, J.)