

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 1301 OF 2025**

Patrick Rory Richards ..Applicant
Versus
State of Maharashtra & Anr ...Respondents

Mr. Chinmay Page, i/b Muralidhar Khadilkar, for the Applicant
Smt. R. S. Tendulkar, APP, for Respondent No.1-State.

CORAM: N. J. JAMADAR, J.
DATE : 21st NOVEMBER 2025

ORDER:

1. Heard Mr. Page, the learned Counsel for the Applicant and Smt. R.S. Tendulkar, the learned APP, for the Respondent No.1-State.

2. The Applicant is aggrieved by an order dated 4th February 2020 of issue of process against the Applicant for the offence punishable under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881 (“the Act, 1881”).

3. The Applicant was an Additional Director of the Accused No.1-company which had availed financial facilities from the complainant-Bank. The cheque dated 17th July 2019 drawn by the Accused No.1 towards the discharge of the liabilities for a sum of Rs.350 crores was dishonoured on presentment. As there was default in payment of the

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amount covered by the cheque despite the service of the demand notice, complaint under Section 138 read with Section 141 of the Act, 1881, came to be lodged.

4. The Applicant-original Accused No.5 came to be implicated with the assertion that the Applicant, along with the co-accused, being the director of Accused No.1, was looking after the day-to-day affairs of the Accused No.1, he was in-charge of and was responsible for the day- to-day affairs of the Accused No.1 and for the conduct of the business of Accused No.1-company.

5. By the impugned order, the learned Magistrate issued process against the Applicant along with the co-accused.

6. Mr. Page, the learned Counsel for the Applicant, submitted that there are no averments in the complaint to invoke the provisions contained in Section 141 of the Act, 1881. A bare assertion in the complaint that the accused was in-charge of, and was responsible to, the company for the conduct of the business of the company at the time of the commission of the offence is not sufficient to invoke the provisions contained in Section 141 of the Act, 1881. It was submitted that no specific role has been attributed to the Applicant nor any material has been placed to demonstrate how the Applicant was in-charge of, and was responsible to, the company for the conduct of the business of the company.

7. I have perused the averments in the complaint. The submissions on behalf of the Applicant do not merit acceptance in the light of the averments in the complaint. In paragraph 12 of the complaint, the complainant had made categorical averments as to how the Applicant and the co-Accused Nos. 2, 4 and 5 were involved in the transaction in question, approached the complainant-bank for the grant of the credit facilities and gave assurance of regular repayment.

8. Paragraph 12 of the complaint reads as under:

“12. The Accused No. 2 to 5, being the Directors of Accused No.1, and the Accused No. 6 and 7 being the Officials of Accused No.1 were looking after the day-to-day affairs of the Accused No.1 when they approached Complainant bank for discussions and negotiations for availing Credit Facilities, when the subject cheque was issued and when the statutory demand notice was issued to the Accused. The Accused No.2 to 7 are in-charge and responsible for the day-to-day affairs of the Accused No.1 and for the conduct of the business of Accused No.1. The Accused No. 2 to 7 are looking after business affairs of Accused No.1. The Accused No. 2 to 5 had personally approached the Complainant Bank for the said Credit Facilities for the purpose of business of the Accused No.1 and gave assurance of regular payment towards repayment of the said Credit Facilities. The Accused No.2 to 7 were personally interacting with the Officials of the Complainant Bank from time-to-time. All the necessary documents have been signed and executed by the Accused at the time of availing the said Credit Facilities. Hence, the Accused No. 2 to 7 were duty bound to honour the subject cheque which

was issued by them, on behalf of Accused No.1 against the aforesaid liability.

9. In view of the aforesaid averments in the complaint, it cannot be said that the complaint is bereft of allegations to make out the liability of the directors of the company. In the case of **S. P. Mani And Mohan Dairy Vs Dr Snehalatha Elangovan**¹ the Supreme Court has held that, when in view of the basic averments process is issued, the complaint must proceed against the Directors or partners as the case may be. The aforesaid averments in Paragraph 12 of the complaint, even satisfy the requirements postulated in paragraph 20 of the judgment of the Supreme Court in the case of **Pooja Ravinder Devidasani Vs State of Maharashtra & Anr.**²

10. The learned Magistrate was thus justified in issuing process against the Applicant. Hence, the Application does not deserve to be entertained.

11. The Application stands dismissed.

[N. J. JAMADAR, J.]

1 (2023) 10 CC 685.

2 (2014) 16 SCC 1.