



CRM-M-5022-2024

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-5022-2024

Date of Decision: 30.10.2025

POONAM BHADOURIA & OTHERS

... Petitioners

Versus**STATE OF HARYANA & OTHERS**

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Tushar Sharma, Advocate
for the petitioners.

Mr. T.P. Singh, Sr. DAG, Haryana.

Mr. Lupil Gupta, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of Criminal Complaint NACT No.5344 of 2022 titled as 'Poonam Service Station Vs. Bhadauria Carriers Pvt. Ltd.' registered under Section 138 of the Negotiable Instruments Act along with all consequential proceedings arising therefrom.

2. The brief facts of the case are that in partial discharge of its legal liabilities Abhishek Buda Koti @ Reshu an authorised Signatory and Director of the accused company Bhadauria Carriers Pvt. Ltd. issued a cheque bearing No.140095 dated 20.02.2021 for an amount of Rs.13,00,000/-. The said cheque came to be dishonoured leading to the summoning of the petitioners



CRM-M-5022-2024

-2-

along with the Signatory Abhishek Buda Koti @ Reshu. The copy of the complaint dated 24.02.2022 and summoning order dated 17.05.2022 are attached as Annexures P-1 & P-2 to the petition.

3. The complaint dated 24.02.2022 (Annexure P-1) and summoning order dated 17.05.2022 (Annexure P-2) are under challenge in the present petition.

4. The learned counsel for the petitioners contends that though the petitioners were Directors of the accused company, the mandatory averments which are required to be made in terms of sub-section (1) of Section 141 of the Negotiable Instruments Act have not been made inasmuch as there is no mention in the complaint that the petitioners were incharge and responsible for the day-to-day running of the affairs of the Company. In the absence of such an averment being made, the present complaint and summoning order qua the petitioners are liable to be quashed as the signatory of the cheque in question was Abhishek Buda Koti @ Reshu who was effectively running the entire business of the company and the reply to the notice has also been sent by the said authorised signatory and Director namely, Abhishek Buda Koti. Reliance is placed on the judgments in Ashok Shewakramani & others Vs. State of Andhra Pradesh & another, Criminal Appeal No.879 of 2023, decided on 03.08.2023 and Ravi Dhingra Vs. State of NCT of Delhi & another, SLP (Crl.) No.13251 of 2023.

5. On the other hand, the learned counsel for respondent No.2/complainant contends that at the time of passing of a summoning order



CRM-M-5022-2024

-3-

in a criminal complaint, the Court has not to go into the question of sufficiency of evidence for conviction and it is only to see whether a *prima facie* case is made out. As the petitioners were Directors of the Company, they cannot escape their liability. He therefore prays that the present petition is liable to be dismissed.

6. I have heard the learned counsel for the parties.

7. Before proceeding further in the matter, it would be apposite to refer to the judgments relied upon by the learned counsel for the petitioners and the same are discussed hereinunder:-

In **Ashok Shewakramani** (supra), the Hon'ble Supreme Court held as under:-

"4. The main issue canvassed by the learned Senior Counsel appearing for the appellants is that though the appellants were directors of the first accused company at a relevant time, the mandatory averments which are required to be made in terms of sub-section (1) of section 141 of the NI Act have not been made. The response of the learned counsel appearing for Respondent No.2 is that in substance, in paragraph 7 of the complaint, the said averments are found. Secondly, the learned counsel submitted that the appellants have not replied to the statutory notice issued under section 138 of the NI Act. In support of the second contention regarding the failure of the appellants to give a reply to the statutory notice, he relies upon a decision of this Court in the case of "S.P. Mani and Mohan Diary v. Dr Snehalatha Elangovan " 2022 SCC Online SC 1238.

5. We have carefully perused the complaint and the affidavit in support of the complaint. In paragraph 4 of the complaint, it is stated that the accused No.1 is the Company on whose account the two cheques were issued and accused No.2 is the Managing



Director of the accused No.1. The present appellants have been described as the Directors of the accused No.1 - Company. The cheques were signed by accused No.2 who is the Managing Director of the accused No.1 company. The only material averments even according to the case of learned counsel for Respondent No.2 are found in paragraph 7 of the complaint which read thus:

"7. The Accused 2 to 7 are fully aware of the business transactions of the Accused No.1 company. They are all jointly and severally liable for the transactions of the Accused No. 1 company. All the accused are fully aware of the issuance of the above cheques without balance in the account. They are also fully aware that the cheques will be dishonoured. It clearly establishes that all the Accused with an intention to deceive and defraud the complainant have issued the cheques and directed the complainant to present the cheques. So, the accused have issued the above cheques knowing fully well, that there are no funds in their account. The accused have not the cheques amount within 15 days after receipt of the notice. The cheques are issued towards legally enforceable debt and liability of the complainant. So, they have committed an offence, punishable under section 138 of N.I. Act."

10. Therefore, even if we decide to take a broad and liberal view of the pleadings in the complaint, we are unable to draw a conclusion that compliance with the requirements of sub-Section 1 of Section 141 N.I. Act was made by the second respondent. The most important averment which is required by sub-Section (1) of section 141 of the NI Act is that the directors were in charge of, and were responsible for the conduct of the company. The appellants are neither the signatories to the cheques nor are whole time directors. The decision in the case of "S.P. Mani and Mohan Diary v. Dr. Snehalatha Elangovan " will have no application as in the present case, the statutory notice was admittedly not served to



CRM-M-5022-2024

-5-

the accused. Obviously, the High Court has not adverted to aforesaid two glaring deficiencies in the complaint.

11. In the circumstances, the appeal must succeed and the impugned Order is quashed and set aside, only in so far as the present appellants are concerned. Accordingly, a complaint bearing CC No.1/12 pending in the Court of Judicial Magistrate, First Class, Nandyal is quashed only in so far as present appellants are concerned.”

(Emphasis supplied)

In **Ravi Dhingra**, the Hon’ble Supreme Court held as under:-

“6. The crux of the contention is that the complaint lacks the mandatorily required averment to maintain a complaint for commission of offence under Section 138 of the NI Act. To buttress the said contention, learned Senior Counsel relied upon the decision of this Court in Ashok Shewakramani & Ors. v. State of Andhra Pradesh & Anr. 1

7. The law enunciated in the decision in Ashok Shewakramani’s case (supra) is that to maintain a complaint and to frame a charge under Section 138 of the NI Act, there must be a specific averment against the person concerned that he was in-charge of, and responsible for the company concerned in the matter of conduct of its business. This position is now well settled and is being followed with alacrity.

8. Taking note of the law thus settled by this Court, we have carefully perused the complaints. Though, the learned counsel appearing for the second-respondent in all these cases, took pains to convince us that the complaint concerned carried necessary averments required statutorily to maintain them however, on perusing the said complaints, we have no hesitation to hold that the aforesaid mandatorily required averments to attract an offence under Section 138 of the NI Act are conspicuously absent in all the complaint(s). To make the appellant to stand the trial, in such circumstances, would be nothing but abuse of the process of the



CRM-M-5022-2024

-6-

Court. When that be the position, they are liable to be set aside in the light of Ashok Shewakramani's case (supra).

9. In the said circumstances, we are of the view that appellant has made out a case warranting quashment of the common order dated 21.08.2023 passed in Crl. M.C. Nos. 5981 of 2022, 5982 of 2022, 5975 of 2022, 5980 of 2022 and 5965 of 2022, passed by the High Court. Accordingly, we set aside the impugned common order dated 21.08.2023 passed by the High Court in the aforesaid Criminal Miscellaneous Cases. Consequently, the appeals are allowed. Accordingly, the complaint cases being 49307 of 2016, 49308 of 2016, 49309 of 2016, 49310 of 2016, and 48700 of 2016 on the files of the learned Metropolitan Magistrate, New Delhi District, Patiala House Courts, New Delhi and all further proceedings and orders including the summoning orders issued respectively in the said cases qua the appellant stand quashed and set aside."

(Emphasis supplied)

8. Coming back to the facts of the present case, a perusal of the complaint would reveal that there is absolutely no averment qua the specific role played by the petitioners who are admittedly Directors of the Company. The respondent No.2/complainant has not made the necessary averments in terms of sub-section (1) of Section 141 of the Negotiable Instruments Act that the petitioners were incharge of and responsible to the Company for the conduct of the affairs of the Company. Further, the petitioners are not the signatories of the cheque. Admittedly, the cheque has been signed by Abhishek Buda Koti @ Reshu who is a Director and authorised signatory of the accused Company.

9. In view of the aforementioned discussion, I find considerable merit in the present petition and therefore, the Criminal Complaint NACT



CRM-M-5022-2024

-7-

No.5344 of 2022 dated 24.02.2022 (Annexure P-1), the summoning order dated 17.05.2022 (Annexure P-2) and all consequential proceedings arising therefrom stand quashed qua the petitioners only.

(JASJIT SINGH BEDI)
JUDGE

30.10.2025

JITESH

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