

Decided on:02.09.2025

Kirorimal

.... Petitioner

versus

Shree Sheo Narayan Godara Traders Firm and others Respondents

Kirorimal

.... Petitioner

versus

M/s Lal Chand Baldev Singh and others Respondents

Kirorimal

.... Petitioner

versus

Godara Trader and others Respondents

Kirorimal

.... Petitioner

versus

Sunita Trading Company and others Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Sachin Kamboj, Advocate for
Mr. Vivek Goyal, Advocate
for the petitioner.

Mr. D.S.Virk, Advocate
for respondent No.2.

Vinod S. Bhardwaj, J.(Oral)

All these four petitions are being decided by a common order as common questions of law and facts are involved in these cases. Succinctly, the



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dispute is being extracted from **CRM-M-35613-2018** titled as ***Kirorimal vs. Shree Sheo Narayan Godara Traders Firm and others.***

2. Challenge in the above petition is to the criminal complaint No. 388-2/2016 dated 12.07.2016 (Annexure P-1) titled as 'Shree Sheo Narayan Godara Traders Firm vs. Amira Pure Foods Pvt. Ltd. and others' under Section 138 of the Negotiable Instruments Act along with the summoning order dated 23.08.2016 (Annexure P-2) as well as to the order dated 11.05.2018 (Annexure P-4) whereby revision petition filed by the petitioner against the summoning order has been dismissed by the Addl. Sessions Judge, Sirsa.

3. Learned counsel appearing on behalf of the petitioner contends that respondent No.1-complainant had instituted the aforesaid complaint under Section 138 of the Negotiable Instruments Act against respondent No.2-Amira Pure Foods Pvt. Ltd. He contends that transactions for supply of paddy were between respondent No.1-complainant and respondent No.2 – Amira Pure Foods Pvt. Ltd. An allegation was levelled that an amount of Rs.3,33,614/- was outstanding against respondent No.2 – Amira Pure Foods Pvt. Ltd. for which two cheques amounting to Rs.2 lacs and Rs.1,33,614/- respectively were issued by Amira Pure Foods Pvt. Ltd. with an assurance that the same would be honoured on presentation. However, on presentation, the said cheques were dishonoured resulting in institution of the complaint.

Learned counsel contends that the petitioner was only a purchase agent for the said company and was not incharge of management or finance, hence, he was not at all responsible for ensuring that the payment be made. He contends that the complainant never sold any paddy crop to the petitioner and the business relationship was amongst the respondents herein. The petitioner owed no legally enforceable liability to the respondent-complainant



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and despite the petitioner not being a signatory to the cheque or being involved in the business or being responsible for the management or financial affairs, he has yet been summoned to face the trial. He further submits that the complainant also nowhere alleges that the petitioner was a signatory to the cheque. The only allegation levelled against the petitioner is that the petitioner was an authorised agent for the purchase of paddy crop. The paddy supply contract was undisputedly only between the respondent-complainant and Amira Pure Foods Pvt. Ltd., hence, the liability cannot be fastened on its agent, who is merely an employee of the company.

4. Learned counsel also contended that being non-signatory to the cheque and not responsible for the affairs of the Company, he cannot be summoned to face prosecution for the commission of offence punishable under Section 138 of the Negotiable Instruments Act.

5. Learned counsel for the respondent-complainant fairly concedes that the petitioner is not a signatory to the cheque and that he was a purchase agent on behalf of Amira Pure Foods Pvt. Ltd. He, however, contends that the respondent had been supplying the paddy only through the petitioner.

6. I have heard learned counsel for the parties and have gone through the documents appended with the present petition.

7. The Hon'ble Supreme Court in ***Criminal Appeal No. 758 of 2025*** titled as '***Kamalkishor Shrigopal Taparia vs India Ener-Gen Private Limited & Anr***' held that even a mere designation as a director does not conclusively establish liability under Section 138 read with Section 141 of the Negotiable Instruments Act. The relevant part of the judgment is extracted hereunder:

15. This Court has consistently held that a mere designation as a director does not conclusively establish liability under section 138 read with section 141 of the NI Act. Liability is contingent upon



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specific allegations demonstrating the director's active involvement in the company's affairs at the relevant time.

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15.2. In **N.K. Wahi v. Shekhar Singh**, (2007) 9 SCC 481 this Court in (Para:8) observed:

"8. To launch a prosecution, therefore, against the alleged Directors there must be a specific allegation in the complaint as to the part played by them in the transaction. There should be clear and unambiguous allegation as to how the Directors are in-charge and responsible for the conduct of the business of the company. The description should be clear. It is true that precise words from the provisions of the Act need not be reproduced and the court can always come to a conclusion in facts of each case. But still, in the absence of any averment or specific evidence the net result would be that complaint would not be entertainable."

15.3. In **S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla and Another**, (2005) 8 SCC 89, this Court laid down that mere designation as a director is not sufficient; specific role and responsibility must be established in the complaint.

15.4. In **Pooja Ravinder Devidasani v. State of Maharashtra**, (2014) 16 SCC 1 this Court while taking into consideration that a non-executive director plays a governance role, and are not involved in the daily operations or financial management of the company, held that to attract liability under section 141 of the NI Act, the accused must have been actively in-charge of the company's business at the relevant time. Mere directorship does not create automatic liability under the Act. The law has consistently held that only those who are responsible for the day-to-day conduct of business can be held accountable.

16. Upon perusal of the record and submissions of the parties, it is evident that the Appellant was neither a signatory to the dishonoured cheques nor was he actively involved in the financial decision-making of the company. Moreover, he resigned from the



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post of independent non-executive director on 03.05.2017, duly notified through Form DIR-11 and DIR-12 to the Registrar of Companies.

17. The complaints do not contain any specific averments detailing how the Appellant was responsible for the dishonoured cheques.

18. Petitioner's role in the accused company was limited to that of an independent non-executive director, with no financial responsibilities or involvement in the day-to-day operations of the company. Furthermore, he was not responsible for the conduct of its business.

(Emphasis supplied)

7. Having heard learned counsel for the parties and having examined the facts and law, it remains undisputed that the business transactions were between the respondent-complainant and respondent No.2- Amira Pure Foods Pvt. Ltd. It is also not disputed that the petitioner was only a purchase agent and thus, was a representative only for securing the supply of paddy and was not involved in affairs of management and conduct of business. The liability against the paddy so received was of Amira Pure Foods Pvt. Ltd. and the impugned cheque, for which the prosecution has been initiated, was also issued by the said company. The petitioner is undisputedly not a signatory to the cheque and was in no way alleged to be at the helm of affairs of the Company or was liable to ensure that sufficient funds are maintained to honour the cheques, which have been issued.

8. Considering the law laid down by the Hon'ble Supreme Court in the matter of ***Kamalkishor Shrigopal Taparia (supra)***, the present petitions are allowed. The criminal complaint No. 388-2/2016 dated 12.07.2016 (Annexure P-1) and the criminal complaints in the connected petitions; the



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summoning order dated 23.08.2016 (Annexure P-2) and the summoning orders in the connected petitions; as well as the order dated 11.05.2018 (Annexure P-4) passed by the Addl. Sessions Judge, dismissing the revision petition against the said summoning order and the dismissals of the revisions in the connected petitions, are accordingly set aside.

02.09.2025
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No