* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Pronounced on: 07th August, 2025***

\+ **CRL.M.C. 3452/2021, CRL.M.A. 20700/2021 (stay)**

MRS. NISHRIN SAIFUDIN AKOLAWALA
W/o Late Saifudin Lukmanji
New No. 25, Old No. 12,
3rd Main Road, Seethammal Colony,
Alwarpet, Chennai (TN) – 600018 .....Petitioner

Through: Mr. Dhruv Gupta and Mr. Manik Dev, Advocates.

Versus

1. **SAVITRI TELECOM SERVICES**
Through its proprietor
Mr. Ravi Shankar Rai,
203, Ansal Chambers – 2,
6 Bhikaji Cama Place, New Delhi – 110066 .....Respondent No. 1

2. **LOOKMAN ELECTROPLAST INDUSTRIES LIMITED**
New No. 15, Old No. 9,
First Floor, 2nd Street Extension,
3rd Main Road, CIT Nagar,
Nandanam, Chennai (TN) – 600035 .....Respondent No. 2

3. **MR. JUZER BHARMAL**
New No. 25, Old No. 12,
3rd Main Road, Seethammal Colony,
Alwarpet, Chennai (TN) – 600018 .....Respondent No. 3

4. **MR. AMAR BHARMAL SAIFUDIN**
New No. 15, Old No. 9,
First Floor, 2nd Street Extension,
3rd Main Road, CIT Nagar,
Nandanam, Chennai (TN) – 600035 .....Respondent No. 4

5. **LATE MR. SAIFUDIN LUKMANJI (since Deceased)**
New No. 15, Old No. 9,

First Floor, 2nd Street Extension,
3rd Main Road, CIT Nagar,
Nandanam, Chennai (TN) – 600035 .....Respondent No. 5
Through: Mr. Ashok Chaitanya, Advocate for R1.

CRL.M.C. 161/2022, CRL.M.A. 615/2022 (stay)

MR. JUZER BHARMAL
New No. 25, Old No. 12,
3rd Main Road, Seethammal Colony,
Alwarpet, Chennai (TN) – 600018 .....Petitioner
Through: Mr. Dhruv Gupta and Mr. Manik Dev, Advocates.

versus

SAVITRI TELECOM SERVICES
Through its proprietor
Mr. Ravi Shankar Rai,
203, Ansal Chambers – 2,
6 Bhikaji Cama Place, New Delhi – 110066 .....Respondent
Through: Mr. Ashok Chaitanya, Advocate for R1.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Aforesaid two Petitions under Section 482 of Criminal Procedure Code, 1973 have been filed seeking quashing of the proceedings in CC No. 2052/2020 and Summoning Order dated 06.02.2020/09.03.2021 passed by then Ld. M.M. for offences under Sections 138/141 of Negotiable Instruments Act, 1881, against the Petitioners, Mrs. Nishrin Saifudin Akolawala and Mr. Juzer Bharmal.

2. ***Briefly stated***, the Complainant/ *M/s Savitri Telecom Services* is a registered Partnership Firm engaged in business of marketing, manufacturing, installing, renting and servicing instrument & accessories related to electrical, telecommunication, electronics, RF, fiber optics, networking, CATV, DATACOM, security, IT Industries.

3. Accused Company/ *M/s Lookman Electroplast Industries Ltd*. has been engaged by Bharat Electronics Limited for undertaking work for Agra Smart City Ltd. for setting up Command & Control Center and City surveillance work, for which the accused persons were required to import software component of *integrated command and control centre* from *Qognify Limited* (Israeli Company). However, the Accused did not have enough liquidity at the relevant time and requested Complainant to support the Accused Company & import the products on behalf of the Accused Company.

4. In view of the prestige of Agra Smart City Project and the assurance extended from Qognify & Accused Company, the Complainant extended support and raised a Purchase Order from Qognify, to import the products. The purchase Order was issued by Accused Company to the Complainant, but due to some discrepancies, another revised purchase Order was issued on 21.05.2019 for a total of Rs. 6,42,98,325/- plus GST.

5. It was agreed that the Accused will pay 25% as advance within 15 days from the date of PO i.e. 05.06.2019 and balance 75% within 60 days from the date of delivery of Products. In discharge of its liability, the Accused Company issued ***two Cheques,*** bearing No. 266729 dated 05.06.2019 for Rs.1,60,74,581/- and Cheque No. 266726 dated 04.08.2019 for Rs. 4,82,23,744/-, under the signatures of the Authorized Signatory, in accordance with the PO.

6. The accused persons requested that the first Cheque which became due on 05.06.2019 not be deposited as they did not have sufficient funds. Subsequently, on the verbal assurance that the payment of 25% advance would be cleared, the Complainant delivered the products with Invoice on 22.07.2019. After many reminders for making payment, the Accused made payment of Rs.50,00,000/- by way of RTGS on 29.07.2019.

7. Thereafter, the Complainant presented the second Cheque No. 266726 in the sum of Rs. 4,82,23,744/-, but the same was returned with remarks "*payment stopped by drawer."* The Complainant sought intervention of BEL in getting the due amount. Accused sent a mail to the Complainant on 24.09.2019 to inform that the delivery of the ICCC software of Qognify, has been accepted on 23.09.2019 and would send a new PDC within 60 days. ***Accordingly, the new PDC bearing no. 267113 for Rs.7,08,72,023/- was issued by the Accused on 30.11.2019.***

8. The Complainant presented this Cheque but it was dishonored and was returned with the remarks "*Funds insufficient*" *via* Return Memo dated 02.12.2019. The Accused evaded payment despite being informed. A Legal Notice dated 18.12.2019 was issued by the Complainant, but they failed to make payment within the statutory period of 15 days.

9. ***Accordingly, the Complaint was filed, and summons were issued vide Orders dated 06.02.2020/09.03.2021.***

10. **The Petitioners** have sought the quashing of the Summoning Order on the ground that they are not involved in any of the business transactions between the Complainant and the Accused.

11. It is submitted that from a bare reading of the Complaint, it is evident that no role has been ascribed to the Petitioners in the alleged transactions, and the Complaint does not specify any role of the Petitioners and merely addresses all the respondents collectively as "the accused". It is further submitted that the essential ingredients for maintaining a Complaint under Section 138 NI Act, are missing *qua* the Petitioners. Thus, the issuance of Summons is contrary to settled principles of law.

12. In this regard, reliance is placed on *Ashok Mal Bafna vs Upper India Steel Manufacturing & Engineering Company Ltd*. 2018 (14) SSCC 202, *Pooja Ravinder Devidasani vs. State of Maharashtra & Ors.,* AIR 2015 SC 675, and *Pepsi Foods Limited vs Special Judicial Magistrate*, 1998 (5) SCC 749.

13. The **Petitioner/Juzer Bharmal**, has additionally claimed that the Purchase Order dated 21.05.2019 is signed by Mrs. Sridevi Rao, General Manager as the Authorized Signatory of the Accused No. 1 Company, who had also signed the impugned Cheque as the Authorized signatory, and he has no role in the business transactions of the Accused Company.

14. Thus, it is prayed that the impugned proceedings under S.138 NI Act *qua* the Petitioners is liable to be quashed along with the Summoning Orders dated 06.02.2020/09.03.2021.

15. ***The Respondent in its Reply in both the Petitions*** has denied all the averments made by the Petitioners. It is asserted that **the Petitioners are**

Directors of the Accused Company. The Respondent had served 5 separate Legal Notices all dated 17.12.2019, to the five Accused persons. It is submitted that a bare reading of the Legal Notice sent to the Petitioners specifies the role of each of the accused persons. The five Legal Notices have been exhibited along with the Evidence Affidavit which brings it within the meaning of "documentary evidence" under Section 3 Evidence Act, 1872. The content of these legal Notices, thus, becomes part to evidence to define role of each of the accused.

16. The Respondent has also placed reliance on the communication through various emails between the Accused & Complainant Company. At the stage of issuing process, Ld. M.M. has to consider allegations in the Complaint along with the evidence led in support thereof. It is shown that the Petitioners were in charge of the affairs of the Accused Company and thus, vicariously liable for the offences committed by the Company.

17. It is submitted that the Ld. M.M had considered the nature of allegations made in the Complaint and the evidence, both oral & documentary, while summoning the accused Persons under Section 139 NI Act.

18. In support of their case, the Respondent has placed reliance on *Pepsi Foods Lt. vs. Special Judicial Magistrate*, (1998) 5 SCC 749, *Pooja Ravinder Devidasani vs. State of Maharashtra,* 2014 (16) SCC 1, *Collector Land Acquisition, Anantnag & Ors. vs. Katij i& Ors*., AIR 1987 SC 1353 and *State of Nagaland vs Lipok AO & Ors.*, AIR 2005 SC 2191.

19. ***Thus, it is prayed that the Petitions be dismissed***.

Submissions Heard and record perused.

20. The Respondent/Complainant in the Complaint under S.138 NI Act has made the averments that being the ***Directors in Accused No. 1 Company*** and being involved in its day-to-day affairs, the Petitioners are responsible for the acts of the Accused Company. However, it is not mere designation which makes an accused vicariously liable for the acts of the Company; rather it is their role and their involvement in the day-to-day affairs of the Company which is determinative of their liability.

21. The principles for making the person vicariously liable for the affairs of the Company were stated by the Supreme Court in *Aneeta Hada vs. M/s Godfather Travels & Tours Pvt. Ltd.*, AIR 2012 SC 2795. After referring to judgments in *Iridium India Telecom Ltd. vs. Motorola Inc and Ors.,* 2004 (1) BOM CR 479 and *Standard Chartered Bank and others vs. Directorate of Enforcement and others,* AIR 2006 SC 1301, it had observed that *"the Company can have criminal liability and further, if a group of persons that guide the business of the companies have the criminal intent, that would be imputed to the body corporate. In this backdrop, Section 141 of the Act has to be understood. The said provision clearly stipulates that when a person which is a Company commits an offence**, then certain categories of persons in charge as well as the Company** would be deemed to be liable for the offences under Section 138. Thus, the statutory intendment is absolutely plain."*

22. The same was reiterated by the Apex Court in *Anil Gupta vs Star India Pvt. Ltd.,* 2014 (10) SCC 373, *Himanshu vs B. Shivamurthy&Anr.,* (2019) 3 SCC 797, and recently in *Bijoy Kumar Moni vs Paresh Manna &Anr.,* 2024 INSC 1024.

23. In the light of the aforesaid law, the case of the Petitioners may be considered in this context.

CRL.M.C. 161/2022: Petitioner/Juzer Bharmal:

24. The Petitioner Juzer Bharmal has been sued as the Director of the accused Company.

25. Law in regard to the liability of Directors stands settled in *S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla* (2005) 8 SCC 89 wherein Apex Court had reiterated and clarified that essentially in a case under Section 141, there ought to be a specific averment in the pleadings of the Complainant that at the time the Offence was committed, *the person accused was in charge of and responsible for the conduct of the business of the Company*. It was held that a Director would not be liable simply because they are holding that position. *It needs to be shown that the Director being made liable, should be in charge of and responsible for the conduct of the business of the Company at the time of committing the offence*. Further, that the persons holding the office of "Managing Director" or "Joint Managing Director", by virtue of the very nature of their role, renders them in charge of and responsible for the conduct of the business of the Company and liable under Section 141. Similar observations were made by the Apex Court in *Sunita Palita vs. M/s Panchami Stone Quarry*, in SLP (Crl.) No. 10396 of 2019 decided on 01.08.2022.

26. In the Legal Notice dated 12.07 2019, it is mentioned that the Petitioner is a Director in the Accused No. 1 Company and has been involved in the day-to-day affairs of the Accused No. 1 Company. The Complainant has relied upon some emails to demonstrate the role of the

Petitioner/Juzer in the Accused No. 1 Company and his involvement in the transactions.

27. The email dated 24.09.2019, written by Shabbir (*M/s Lookman*) to Ravi Shankar Rai (*M/s Savitri*) regarding delivery of the ICCC Software of Qognify and issuance of PDC within 60 days. A copy of this email was sent to the Petitioner/Juzer, thereby implying that he was involved in the business transactions of the accused Company.

28. The second email dated 29.11.2019, was written by Shabbir to Rai Shankar Rai requesting them not to deposit the cheque. This email was also addressed/forwarded to the Petitioner/Juzer. Similar was the third email dated 06.12.2019 regarding the explanation for delay in clearing payment.

29. The 4th email dated 06.12.2019 sent on behalf of the Complainant by Ravi Shankar Rai, was regarding the dishonor of the Cheque No. 267113, was addressed to the Petitioner/Juzer as well as Shabbir (co-accused).

30. From these emails addressed to him, it is evident that the Petitioner was involved in the day-to-day affairs of the Company. The argument of the Petitioner/Juzer that he was not concerned with the day-to-day affairs of the Accused Company, cannot be accepted.

31. ***Thus, the Legal notice describing him as the Director coupled with the emails, prima facie show his involvement in the affairs of the accused Company and he has been rightly summoned vide the impugned Order***.

<u>CRL.M.C.3452/2021: Nishrin</u>

32. **Nishrin**, has been described as the Director of the accused. Her role can be deciphered from the Legal Notice dated 17.12.2019 which reads as under: -

> *"That You, the noticee, is a director of Lookman Electroplast Industries Limited ("Company"), a Company registered under the Companies Act; 1956, and having its registered office at Old No. 8 & 9, New No. 15, 2nd Street Extension, 3rd Main Road, CIT Nagar, Nandanam, Chennai, Tamil Nadu – 600035 and are in charge of and responsible for the conduct of business of the Company on a day to day basis."*
>
> *...*
>
> *"**That You, the noticee, is involved in day-to-day affairs as well as conduct of the business of the Company and hence responsible for issuing the dishonored cheque**, which was issued for and on behalf of the Company against the legally enforceable debt of Total Amount."*

33. Though the Legal Notice claims her involvement in the affairs of the accused Company, but there is no specific averment to show or explain the manner of her involvement, unlike Juzer where there were emails to show the involvement. As has been held in the case of *S.M.S. Pharmaceuticals Ltd.* (supra) that mere designation with nothing more, is not sufficient to show her involvement.

34. In view of the law discussed above, it cannot be said that merely on the basis of the bald assertions made in the demand Notice of her being a Director, even if they are taken to form part and parcel of the Complaint, do not ascribe any specific role to the Petitioner/Nishrin and there is no communication with her regarding the business transactions either addressed or forwarded.

35. Thus, the Petitioner/Nishrin cannot be held to be responsible for the affairs of the Accused Company and accordingly, the Summons issued against her is liable to be quashed.

36. ***Thus, the Summoning Order qua Petitioner/Nishrin is quashed.***

Relief: -

37. The **CRL.M.C. 3452/2021**, *qua* Petitioner/Mrs. Nishrin Saifuddin Akolawala, **is allowed**. The **CRL.M.C. 0161/2022**, *qua* Petitioner/Mr. Juzer Bharmal **is dismissed**.

38. The Petitions are accordingly disposed of, along with pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 07, 2025/RS