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

% ***Reserved on: 24th September, 2025***
Pronounced on: 21st November, 2025

\+ **CRL.M.C. 989/2021, CRL.M.A. 5036/2021**

PRAVEEN SINGH .....Petitioner

Through: Mr. Akshay Bhandari, Mr. Anmol Sachdeva, Mr. Kushal Kumar and Ms. Megha Saroa, Advocates.

versus

RELIGARE FINVEST PVT LTD AND ANR .....Respondent

Through: Advs. Mr. Sanjeev Kumar Sharma, Ms. Sanya Sud, Mr. Raahul Sharma, for R-1.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition filed under Section 482 of Criminal Procedure Code, 1973 (*hereinafter referred to as "Cr.P.C."*) for quashing of the Criminal Complaint bearing No. CC. No. 17172/2018 for offences under Sections 138 and 141 of Negotiable Instruments Act, 1881 (*hereinafter referred to as "N.I. Act*") and Summoning Order dated 04.10.2018 *vide* which the Petitioner being the Director of the Company, was summoned.

2. ***Briefly stated***, the Complainant Company, i.e. Respondent No. 1, *Religare Finvest Ltd.* deals in the business of providing loan and finance to business entities and individuals. The accused Company, *Vitoba Realtors Pvt. Ltd.* is in the business of manufacturing of *chemical products*. Mr. Deepak Poswal, Accused No. 2, and Ms. Praveen Singh, Accused No. 3/ Petitioner, were directors in the accused Company (***"directors"***). Accused

Nos. 4 and 5, namely Mr. Sanjay Gupta and Mr. Pankaj G. Sachdeva respectively, were Authorised Signatories in the accused Company.

3. **It is the case of the Complainant** that the accused had approached the Complainant through its directors, for taking **a loan of Rs. 35,00,00,000/-** against mortgage of property which was sanctioned *vide* Sanction Letter dated 23.03.2016, against creation of security on the property mentioned therein. The loan was to be repaid at the end of the term of 24 months and the interest was to be paid at the end of each quarter, throughout the term of the loan.

4. The accused executed various documents to avail the loan including a Facility Agreement dated 23.03.2016 and the loan was disbursed to the accused accordingly.

5. It was averred in the Complaint that the directors and the authorised signatories, i.e. Accused No. 4 and 5 were in *charge of and responsible for the conduct and business of the accused Company.* As per the Complainant, the accused company is an alter ego of the directors, i.e. Accused No. 2 and 3, including the Petitioner. The accused handed over three cheques towards the repayment of the principal and interest as under:

(i) Cheque No. 265067 dated 10.04.2018 for an amount of Rs. 1,15,50,000/-;

(ii) Cheque No. 265057 dated 16.07.2018 for an amount of Rs. 35,00,00,000/-; and

(iii) Cheque No. 265058 dated 16.07.2018 for an amount of Rs. 12,00,000/-.

6. The said Cheques were signed by the authorised signatories, i.e. Accused No. 4 and 5 on behalf of the accused Company, allegedly with the consent and connivance of the other accused persons, in discharge of part of the liability of the accused company.

7. Upon the maturity of the loan, the aforesaid Cheques were presented by the Complainant at Axis Bank, Gurugram, Haryana for encashment. However, they were returned dishonoured on account of ***"Account Closed"***. The **Cheque bearing No. 265067 dated 10.04.2018 was dishonoured *vide* Return Memo dated 10.07.2018** in respect of which information was received by the Complainant on 11.07.2018. The **Cheque bearing No. 265057 and Cheque No. 265058 dated 16.07.2018 were dishonoured *vide* Return Memos dated 19.07.2018** and the Complainant could not get the payment of the aforesaid Cheques.

8. The Complainant Company submits that the Cheques aggregating Rs. 36,27,50,000/- is a debt due and payable by all the accused persons. The Complainant issued **a Legal Notice dated 09.08.2018** to all the accused persons, i.e. the accused, the directors and the authorised signatories, to make the payment of the amount of the said Cheques, i.e. a sum of Rs. 36,27,50,000/- within 15 days of the receipt of the Notice. The Notice was duly served on 10.08.2018 at the registered office of the accused company, as per tracking report obtained from the website of Indian Post Department. However, despite the service of the Notice, the accused persons neither replied to the Notice nor made any payment towards the aforesaid Cheques.

9. Respondent thus, instituted a **Complaint under Section 138 of the N. I. Act on 22.09.2018** against the accused Company and its Directors.

10. The Petitioner, Praveen Singh herein, was summoned as a director of the said Company *vide* Summoning Order dated 04.10.2018. The Petitioner was not even aware of the present case about which she got information while being represented in a connected matter.

11. As per Section 141 N.I. Act, it is only those directors of a Company who are involved in the day to day management and functioning of the company who can be held vicariously liable for the offence. It is a mandatory requirement in law for the complainant company to specifically plead that the director impleaded as an accused was responsible for the day to day affairs of the company "*at the time when the offence was committed*". However, no such averment has been made in the Complaint, and therefore, the Complaint is liable to be quashed *qua* the Petitioner.

12. She was a ***Non-Executive Director*** of the accused Company and cannot be held responsible for the day to day functioning of the Company unless specific allegations are made to elaborate as to how and in what manner the Petitioner was responsible for the functioning of the accused Company. The Complaint only contains bald allegations against the Petitioner and does not show a single email, communication, letter, request or any document signed by the Petitioner, to show that she had any involvement in the functioning of the Company. It only contains a reproduction of the statutory language and there is no elaboration of the facts to attract any vicarious liability to the Petitioner.

13. The Petitioner submits that that none of the cheques or any of the documents pertaining to the said transaction and relied upon by the Complainant Company, have been signed by the Petitioner. All the cheques and documents had been signed by Accused No. 4 and 5, i.e. the authorised

signatories of the accused Company. It is evident that the dishonoured Cheques were handed over by Accused No. 4.

14. Further, in cases where directors are to be made vicariously liable, the Complainant has to annex an *Information Sheet* along with the Complaint, thereby spelling out the role played by the accused who is to be made vicariously liable. However, in the Information Sheet, the Complainant company has merely reproduced the language of the provision and stated that the Petitioner was instrumental in the transaction, but has not elaborated as to how and in what manner the Petitioner was instrumental in the transaction.

15. The Complainant has approached this Court with unclean hands. The Complainant has lodged a FIR against its erstwhile management/ promoters alleging that the said promoters have misappropriated the funds of the Complainant company by creating fictitious Companies and giving loans to the said fictitious companies from the funds of the Complainant Company and subsequently re-routing the said funds from those fictitious Companies to their own Companies, for their personal benefit.

16. The EOW has already investigated the matter and submitted a chargesheet stating that the promoters are guilty of misappropriating the money of the complainant company. Further, the EOW has already investigated the directors of the said fictitious companies that were created and given a finding that the directors of the said fictitious companies had no role to play in the misappropriation of the funds of the complainant company and that all such persons were acting as directors of the said Companies as they knew the promoters personally. However, none of the

said directors had any role in or knowledge of the said misappropriation of the funds.

17. The loan which is the subject matter of the present Petition, was also a part of the said investigation. The investigation by the EOW has further revealed that the loan given by the Complainant company to the accused company was rerouted the same day to the Companies owned and managed by the Promoters.

18. The EOW had already interrogated the Petitioner and concluded that she had no role to play in the said transaction and had no knowledge of the conspiracy hatched between the Promoters. The Complainant despite being fully aware that the Petitioner had no role to play in the said transaction has approached this Court with unclean hands by portraying that the said transaction was a genuine business transaction. IT has been completely concealed that the investigation by the EOW, has already revealed that the Petitioner and other directors of the fictitious Companies created by the promoters, had no role to play in the loans or the subsequent misappropriation of the funds.

19. The Petitioner submits that it is the admitted case of the Complainant that the Petitioner was a ***Non-Executive Director*** in the said Company. The law is settled that a Non-Executive Director cannot be held responsible for any action of the Company unless knowledge of the said act is attributable to the Non-Executive Director through board process. In the absence of the said allegation, the Petitioner cannot be prosecuted.

20. *Hence, the Complaint against her is liable to be quashed.*

21. The ***Respondent has filed Brief Common Submissions*** on behalf of Complainant and submitted that there is no denial of the ingredients of

offences committed under Sections 138-143 NI Act. It is submitted that the limited scope of the Petition is in relation to the Petitioner's joint and vicarious liability under Section 141 NI Act, that there are no particulars given in the Complaint about the Petitioner's role.

22. Reliance is placed on *A.C. Narayanan v. State of Maharashtra*, (2014) 11 SCC 790 wherein it has been observed that the inquiry under Section 482 Cr.P.C. is limited to the averments in the Complaint, Affidavit and the contents of documents, and the High Court may not look at any other document or the facts on merits of any defence. Further, in *HMT Watches Ltd. v. M.A. Abida*, (2015) 11 SCC 776 and *Savithri Radhakrishnan v. State of A.P. and Anr* 2017 SCC OnLine Hyd 716 it has been held that the High Court may not go into factual matters that are not admitted or make in depth enquiry on a question of fact which can be determined only after full-fledged trial. The parties to a Complaint are at liberty to establish their individual stand during trial and the trial courts shall decide the cases on merits.

23. Reliance is placed on *Gunmala Sales Pvt. Ltd. vs. Anu Mehta*, 2015 1 SCC 103 to state that a Petition under Section 482 Cr.P.C. to be allowed must show incontrovertible material or acceptable circumstances to establish that trial would be an abuse of the process of court. A complaint may not be quashed merely on the ground of basic averments, because ordinarily the basic averments would be sufficient to send the accused to trial.

24. It is submitted that the averments in the Complaint, affidavit of evidence and documents have been found by the magistrate to warrant issuance of process to *inter-alia* the Petitioner.

25. The role and acts of the Petitioner whether as a Director or otherwise, have been specified in the Complaint. It has been stated that the Petitioner looked after the day-to-day affairs of the accused Company. The Petitioner was in charge of, and was responsible to the accused Company for the conduct of the business of the accused Company, responsible for the conduct and business of the accused Company at the relevant time. Further, the cheques had been issued with the prior approval of the Petitioner, and the accused Company is an alter ego of the Petitioner. Further, the loan representing the debt sought to be discharged by the cheques in issue was requested by the Petitioner on behalf of the accused Company. It has been stated that the Security was offered as collateral for the said loan by the Petitioner and the cheques were issued by the other accused person with the consent, connivance and knowledge of the Petitioner. It is stated that the cheques were handed over by the Petitioner on behalf of the accused Company.

26. Thus, in all the aforesaid instances, the Complaint has categorically averred the role of the Petitioner, the relevant time and given all the available particulars required for establishing offence under Section 138 N.I. Act.

27. It is submitted that the deemed liability under Section 141 (1) and 141(2) N.I. Act is distinct but can cover the same person in given facts and circumstances. In the present case, the Petitioner is arrayed as accused in the Complaint both as director/ officer who consented and connived for purposes of Section 141(2) N.I. Act but also is a person (other than a director/ officer for any period that the allegedly was not director) who oversaw the affairs of and responsible to the accused Company in terms of

Section 141(1) N.I. Act. The averments and loan documents with the Complaint show that to secure the loans, various other security documents were issued by the accused Company which would be with the consent or connivance of the Petitioner as director.

28. Furthermore, the *deemed liability* under Section 141(2) arises based on consent and connivance of "*any director, manager, secretary or other officer of the company*". Section 141 N.I. Act only recognises these designations and no other classification, such as an independent director, executive or non-executive director etc., is either stipulated or distinguished by the Act for affixing liability. The Petitioner has been specifically averred in the Complaint as the alter ego of the Accused Company and falls squarely within the scope of an "officer" who is deemed liable under Section 141 N.I. Act.

29. It is submitted that the Companies Act, 2013 does not make any such distinction in the definition of *director* in Section 2(34) Companies Act, 2013. Section 149(12) of the Companies Act, 2013 also identifies only two categories of directors, namely independent director and 'a non-executive director not being promoter or key managerial personnel'. It is not the case of the Petitioner that she was an independent director nor that she was 'non-executive director not being promoter or key managerial personnel'.

30. Moreover, the reliance by Petitioner on the EOW Chargesheet is untenable as it is not part of the Complaint and cannot be relied upon in the present proceedings.

Submissions Heard and Record Perused.

31. The Petitioner in the aforesaid Petition has been summoned for Offence under Section 138 r/w 141 N.I. Act. The Petitioner seeks quashing

of the Complaint Case *qua* her, in view of her designation in the Accused Company i.e. as a Non-executive Director and thus not being in control of the day-to-day affairs of the Accused Company.

Liability of Directors:

32. To appreciate this contention of the Petitioner, the first aspect to assess is ***under what circumstances would the director a Company be liable under the N.I. Act***. Herein, it would be pertinent to reproduce Section 141 N.I. Act, which reads as under:

> *"**141. Offences by companies.—***
> *(1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*
>
> *Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:*
>
> *[Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]*
>
> *(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a*

> *company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*
>
> *Explanation.—For the purposes of this section, —*
> *(a) "company" means any body corporate and includes a firm or other association of individuals; and*
> *(b) "director", in relation to a firm, means a partner in the firm."*

33. Section 141 of N.I. Act read with Explanation, makes it abundantly clear that when an offence is committed by a Company or a Firm, every member who is ***responsible and in charge of the affairs*** of the Company/Firm, is guilty of the offence committed under Section 138 of N.I. Act.

34. It is a penal provision creating vicarious liability which must be strictly construed. Mere bald cursory statement in a Complaint that the Director (arrayed as an accused) is in charge of and responsible to the company for the conduct of the business of the Company without anything more as to the role of the Director, is not sufficient. The Complaint should spell out as to how and in what manner Respondent was in charge of or was responsible to the accused Company for the conduct of its business.

35. There must be a specific allegation in the Complaint as to the part played by the alleged Directors in the transaction, as has been observed by the Apex Court in *N.K. Wahi v. Shekhar Singh*, (2007) 9 SCC 481. 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. While the exact words of the Section may not be reproduced, but the role of the Director must be discernible from the averments made in the Complaint. In the absence of any averment or specific evidence, the Complaint would not be entertain-able.

36. Thus, mere designation as a Director is not sufficient; specific role and responsibility must be established in the Complaint as held by the Apex Court in *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla and Another*, (2005) 8 SCC 89.

37. Now, it is pertinent to refer to the contents of the Complaint under Section 138 N.I. Act to assess whether any specific allegations are made *qua* the Petitioner. The relevant extracts of the Complaint dated 22.09.2018 are as follows:

> *"2. Accused No. 1 is a company incorporated under the companies Act, 1956and is represented to be in the business of manufacturing of chemical products. Accused No 2 and 3 are the Directors of Accused No. 1, whereas Accused No.4 and 5 are its authorized signatories in the bank account. Accused No 2 to 5 look after and manage the day to day affairs and business of accused No. 1 and they are / were the persons in charge and responsible for the conduct and business of accused No .1 at the relevant time, in fact. accused No 1 is an alter ego of accused Nos. 2 and 3.*
>
> *3. Accused No I, through Accused No 2 and 3 approached the complainant company for taking a loan of Rs. 35,00,00,000 (Thirty five Crore Only) against mortgage of property, and after considering the proposal of accused No.1, the complainant sanctioned a loan of Rs, 35 Crore to the accused No.1 vide sanction letter dated 23.03.2016 against creation of security on the property mentioned in the sanction letter. Then loan was to be repaid at the end of the*

terms of 24 months and the interest was to be paid at the end of each quarter throughout the term of the loan.

...

5. That towards the repayment of the principal and interest, Accused No 2 and 3 handed over cheques on behalf of Accused no .1 to the company presented the following cheques at a branch of Axis Bank at Gurgram, Haryana for crediting in the account of the complainant Company maintained with a branch of Axis Bank at Karol Bagh, New Delhi…the above cheques were issued by Accused No 4, Mr. Sanjay Gupta and Accused No 5, Mr. Pankaj G Sachdeva on behalf of Accused No .1 with the consent connivance and knowledge of the other Accused persons in favor of the complainant in discharge of the part liability of accused No. 1.

...

8. it is an admitted position that the accused No . 1 in discharge of its obligations, and with prior approval from Directors i.e, Accused No 2 and 3 who independently and jointly with the consent, connivance and knowledge of the each other, issued cheques in favor of the complainant for repayment of this loan amount and interest, which were signed by Accused Nos. 4 and 5. Accused No 1 to 5 at all times were aware of the debt and liability assumed thereunder in "elation to the same. Accused Nos. 2 to 5 have been instrumental in issuance of the cheques aggregating Rs. 36,27,50,000/-(Rupees Thrity six crore twenty seven lakhs fifty thousand only) which is a debt due and payable by all the accused persons to the complainant.

...

10. That the above mentioned cheques were issued by the accused no. 4 and 5 with the consent connivance and *knowledge of accused Nos. 2 and 3 on behalf of accused No 1 in favor of the complainant company in discharge of part liability of accused No 1 and the same were dishonoured on presentation, further, despite the service of the legal notice dated 09.08.2018, the accused persons have not made any payment against the said dishonoured cheques and thus they have committed an offences punishable under section 138/l41/l43A of the Negotiable Instrument Act, 1881."*

38. No specific role has been ascribed to the Petitioner (referred to as Accused No. 3 in the said Complaint). Mere bald assertion that the Petitioners were responsible for day to day affairs, is not enough to attract provisions of N.I. Act unless it is explained as to how and in what manner Petitioners are in charge of and responsible for conduct of the business of the Company.

39. Furthermore, DIR 12 reflects that the Petitioner has been categorised as a "***Director***" within the class of "***Non-Executive Directors***" with her date of Appointment being 29.09.2017.

40. The role and responsibility of Non-Executive Directors was considered by Apex Court in the case of <u>*Pooja Ravinder Devidasani v. State of Maharashtra*</u>, (2014) 16 SCC 1 wherein it was observed that "*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* ***<u>only those</u> who are***

***responsible for the day-to-day conduct of business** can be held accountable.*"

41. The Apex Court in the case of *Chitalapati Srinivasa Raju v. Securities and Exchange Board of India*, (2018) 7 SCC 443, held that "***non-executive directors** are, therefore, persons who are not involved in the day-to-day affairs of the running of the company and are not in charge and are not responsible for the conduct of the business of the company.*"

42. These observations made in the case of *Pooja Ravinder Devidasani (supra)* have been endorsed by the Apex Court in the recent case of *Kamal Kishor Shrigopal Taparia v. India Ener Gen Private Limited*, 2025 INSC 22.

43. Similar observations have been made in *Ashok Shewakramani & Ors. vs State of Andhra Pradesh & Anr.,*(2023) 8 SCC 473 and reiterated in *Hitesh Verma vs. M/s Health Care at Home India Pvt. Ltd. & Ors*., Crl. Appeal No. 462/2025.

44. *Thus, it is clear that Non-Executive Directors, including Independent Directors, are typically not involved in the day-to-day operations of the Company, which further limits the scope of their potential liability.*

45. Further, **Section 149(12) of the Companies Act, 2013** provides a protective framework for Independent Directors and Non-Executive Directors (not being promoter or key managerial personnel), by limiting their liability. It holds them accountable only for acts of omission or commission by the Company that occurred with their knowledge gained through Board processes and with their consent, connivance, or due to their failure to act diligently.

46. The Petitioner is a *Non-Executive Director* of the accused Company, and no specific role has been imputed to her in the Complaint except for the general averments that she is a Director of the accused Company. Her designation is evident from the DIR-12 Form placed on record and the relevant details from the same are described hereunder.

47. *Therefore, it cannot be said that she was in-charge or responsible for the day today working of the Accused Company and is entitled to be discharged.*

48. In view of Section 141 NI Act and Section 149 of Companies Act, 2013, the Petitioner could have been held vicariously liable only if it was shown that *she was in charge of and was responsible for the conduct of the business of the Company* at the time of commission of offence. However, nowhere in the Complaints is there even a single word to explain her day to day involvement which assumes significance as she is a Non-Executive Director, who by definition ***not hold any security or interest in the Company***.

49. ***Petitioner Praveen Singh is therefore, entitled to be discharged.***

<u>Relief:</u>

50. The Petition ***CRL.M.C. 989 of 2021*** is allowed and the Summoning Order dated 04.10.2018 in respect of Praveen Singh is hereby, set aside.

51. The Petition is accordingly disposed of, along with pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 21, 2025/*R*