IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No.1105 of 2010

1. Satish Prasad, age about 59 years, son of late Bhuneshwar Prasad, resident of new road, Phusro, near Lal Mohan, Petrol Pump, P.O. & P.S. Bermo, District Bokaro (Jharkhand)
2. Ram Murti, age about 55 years, son of late Bhuneshwar Prasad, resident of Nero Road, Phusro, near Lal Mohan Petrol Pump, P.O. & P.S. Bermo, District Bokaro (Jharkhand) …. Petitioner(s)

Versus

1. The State of Jharkhand
2. M/s Rakesh & Company, through its Director Sri Satish Kumar Jaiswal, son of Kanhaiya Lal Sao, resident of Katras Road, P.O. – Dhanbad, P.S. – Bank More, District - Dhanbad

… Opposite Parties

CORAM: HON'BLE MR. JUSTICE AKHIL KUMAR

For the Petitioner(s)	:	Ms. Trishna Sagar, Advocate
		Mr. A.K. Sahani, Advocate
For the State	:	Mr. Arup Kr. Dey, APP
For the OP No.2	:	Mr. Aniket Kr. Ojha, Advocate

39/ Dated: 4th November, 2026.

1. Learned counsel appearing for the petitioners submits that after the death of the original petitioner, he stands absolved from all the criminal liabilities, so far as the substantive sentences are concerned. It was further submitted that now only the compensation part remains, for which, the opposite party may take proper legal recourse as is available to them. It was further submitted that no criminal liability could be fastened upon the legal heirs/sons of the original petitioner.

2. Learned counsel appearing for the opposite party No.2 fairly concedes and submits that the opposite party No.2 may be given the liberty to approach before the appropriate forum to proceed further in this matter.

3. Such submission has been made in the presence of learned counsel appearing for the State.

4. Heard both the sides and perused the records.

5. It appears that initially a criminal prosecution was launched against the original petitioner (since deceased) under Section 138 of NI Act and after a detailed trial, the petitioner was convicted under Section 138 of NI Act by the Judicial Magistrate, 1st Class, Dhanbad by the impugned Judgment dated 17/18.08.2009 and the petitioner was sentenced to undergo one-year imprisonment along with payment of compensation amount of Rs.6,17,414.31 and the conviction of the petitioner was upheld by the impugned judgment dated 04.09.2010 passed by the Court of learned Sessions Judge, FTC-V, Dhanbad in Criminal Appeal No.303 of 2009.

6. Perusal of the record reveals that at the instance of the opposite party No.2, sons of the original accused petitioner were substituted vide I.A. No.4961 of 2024 and they are now as petitioner No.1 and 2 before this Court being the sons of late Bhuneshwar Prasad, the original accused/petitioner.

7. The submissions advanced by the learned counsel for the petitioners before this Court are inconformity with the Judgment passed by the Hon'ble Apex Court in ***Alka Khandu Avhad Vs. Amar Syamprasad Mishra & Ors. reported in (2021) 4 SCC 675*** on 8th March 2021, wherein the Hon'ble Apex court at Para-7 has observed as follows: -

"On a fair reading of Section 138 of the NI Act, before a person can be prosecuted, the following conditions are required to be satisfied:

i) that the cheque is drawn by a person and on an account maintained by him with a banker;

ii) for the payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, and
iii) the said cheque is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account.

Therefore, a person who is the signatory to the cheque and the cheque is drawn by that person on an account maintained by him and the cheque has been issued for the discharge, in whole or in part, of any debt or other liability and the said cheque has been returned by the bank unpaid, such person can be said to have committed an offence under Section 138 of the NI Act does not speak about the joint liability. Even in case of a joint liability, in case of individual persons, a person other than a person who has drawn the cheque on an account maintained by him, cannot be prosecuted for the offence under Section 138 of the NI Act"

8. The facts of the present case are that the complainant M/s. Rakesh and Company is a registered partnership firm carrying on its business of lubricants at Katras Road, P.S. Bank More, P.O. & Dist. Dhanbad and the complaint, which was instituted and filed by the opposite party through its managing partner Sri Satish Kumar Jaiswal against the accused Bhuneshwar Prasad in lieu of issuing the cheque dated 25.02.2004 to an amount of Rs.6,17,424/-, which later on bounced.

9. It is apparent from the materials available on record that since now the original accused Bhuneshwar Prasad has been deceased and vide order dated 14.06.2024 passed by the coordinate Bench of this Court, his legal heirs were substituted.

10. As has observed by the Hon'ble Supreme Court in the case of ***Alka Khandu Avhad (Supra)*** that a person might have been liable to

jointly pay the debt, as submitted before this Court, but such a person, who might have been liable to pay the debt jointly, cannot be prosecuted, unless the bank account is jointly maintained and that he was a signatory to the cheque.

11. Admittedly, the substituted legal heirs were not the joint signatories of the cheque, neither they were maintaining a joint account with their late father, the original accused/petitioner of this case.

12. In the case referred above, i.e. ***Alka Khandu Avhad (Supra),*** the Hon'ble Supreme Court in categorical terms has observed that:

> *"8. Now, so far as the case on behalf of the original complainant that the appellant herein - original accused No. 2 can be convicted with the aid of Section 141 of the NI Act is concerned, the aforesaid has no substance. 8.1 Section 141 of the NI Act is relating to the offence by companies and it cannot be made applicable to the individuals. Learned counsel appearing on behalf of the original complainant has submitted that "Company" means anybody corporate and includes, a firm or other association of individuals and therefore in case of a joint liability of two or more persons it will fall within "other association of individuals" and therefore with the aid of Section 141 of the NI Act, the appellant who is jointly liable to pay the debt, can be prosecuted. The aforesaid cannot be accepted. Two private individuals cannot be said to be "other association of individuals". Therefore, there is no question of invoking Section 141 of the NI Act against the appellant, as the liability is the individual liability (may be a joint liabilities), but cannot be said to be the offence committed by a company or by it corporate or firm or other associations of individuals. The appellant herein is neither a Director nor a partner in any firm who has issued the cheque. Therefore, even the appellant cannot be convicted with the aid of Section 141 of the NI Act. Therefore, the High Court has committed a grave error in not quashing the complaint against the appellant for the offence punishable under*

> *Section 138 r/w Section 141 of the NI Act. The criminal complaint filed against the appellant for the offence punishable under Section 138 r/w Section 141 of the NI Act, therefore, can be said to be abuse of process of law and therefore the same is required to be quashed and set aside."*

13. Accordingly, I find that the facts of the case in hand are squarely covered by the Judgment of the Hon'ble Supreme Court as referred above, i.e. ***Alka Khandu Avhad (Supra).***

14. On the basis of the observation made herein above, this Court finds that this criminal revision application, so far as the sentence part is concerned stands abated against the original petitioner due to his death and consequently no criminal liability could be fastened upon the legal heirs.

15. So far as the compensation part is concerned, as prayed for by the learned counsel appearing for the opposite Party No.2, he is always at liberty to proceed further for recovery of the amount as per law.

16. In view of the above observation and discussion, this criminal revision application stands disposed of.

(Akhil Kumar, J.)

04.11.2026
R.Kumar
Uploaded on 06.11.2026