IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 71OF 2026

1. Harmony Organics Pvt. Ltd.
A Company registered under the
Provisions of the Companies Act, 1956 having
Its registered office at 124-127, Fortune Estate,
East Block, Pune Solapur Road,
Near Akashwani, Hadapsar,
Pune, 411028.

2. Mr. Ravi Nangia,
Age: 76 Years, Occupation: Business,

3. Mr. Sandeepkumar Abhaykumar Mehta,
Age: 50 years, Occupation: Business,

4. Mr. Jai Nangia (Director),
Age: 43 Years, Occupation: Business,

5. Mr. Sanjay Sahdeo Salunkhe,
Age: 51 years, Occupation: Business,

6. Mr. Sandip Lotke,
Age: 49 years, Occupation: Business,

7. Mr. Dipak Totala,
Age: 33 years, Occupation: Service,

8. Mrs Smita Jain,
Age: 56 years, Occupation: Service,

9. Mr. Praful Dave,
Age: 73 years, Occupation: Service,

2 to 9 All having address at:
124-127, Fortune Estate, East Block,
Pune Solapur Road, Near Akashwani,
Hadapsar, Pune, 411028 Maharashtra … Petitioners

V/s.

1. M/s. SVS Chemical Corporation LLP
Office at: 520, Rasta Peth, Mahavir Palace,
1st floor, Flat no. 1 and 2, Pune - 411011.
Through Partner Mr. Sunil Jayantilal Shah,
Age :59, Occu: Business, Office at:
1st 520, Rasta Peth, Mahavir Palace,
Floor, Flat no. 1 and 2,
Pune – 411011

2. The Senior P.I.,
Hadapsar Police Station, Pune … Respondents

Mr. Rohit Karhadkar, Advocate for Petitioners.

Mr. Sukanta Karmakar, APP for Respondent No. 1 - State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 14th JANUARY, 2026.

P.C. :

1. Heard Mr. Rohit Karhadkar, learned Advocate for Petitioners and Mr. Sukanta Karmakar, learned APP for State.

2. By the present Petition filed under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the Petitioners take exception to the issuance of Bailable Warrant/s against them by the Court of 16th Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Pune ("Magistrate"), in proceedings instituted against them by the Respondent No. 1 under Section 138 of the Negotiable Instruments Act, 1881 ("Said Act").

3. The material facts for adjudication of the present Petition are that Respondent No.1(Complainant) instituted

proceedings (three complaints) under Section 138 of the Said Act against the Petitioners(Accused), before the Magistrate, which complaints were registered as S. C. C. No. 168110 of 2025, S. C. C. No. 168107 of 2025 and S. C. C. No. 16785 of 2025.

4. Case of Respondent No.1 in the said three proceedings was that three cheques, collectively amounting to Rs.58,27,066/- issued by the Petitioners to the Respondent No.1, toward discharge of their legal liability, upon being presented for payment were returned dishonoured, with the endorsement "*exceeds arrangement*". The Magistrate after considering the material on record, on 16.10.2025 issued process in all the said three proceedings, against the Petitioners for the offence punishable under section 138 of the Said Act.

5. On 27.11.2025, Bailable warrants were ordered to be issued by the Magistrate against the Petitioners.

6. Mr. Rohit Karhadkar, learned Advocate for the Petitioners submits that Petitioners having made payment of

Rs. 58,27,066/- on 05.11.2025, Petitioners reasonably expected the Respondent No. 1 to withdraw the said three proceedings. He submits that the Petitioners were shocked to receive Bailable warrants dated 27.11.2025 issued against them in the said three proceedings. He submits that the said warrants were got issued by the Respondent No.1, by concealment / suppressing facts and by misleading the Magistrate. To clarify, he submits Respondent No.1 had concealed / suppressed the fact of receipt of the payment made on 05.11.2025. He submits that in pursuance of the Bailable warrants Respondent No. 2 had visited the premises of the Petitioners which has caused enormous discomfort and inconvenience to the Petitioners and has damaged the reputation of the Petitioners. He by referring to Petitioner's email dated 18.12.2025 and the reply email dated 19.12.2025 of the Respondent No.1 at Exhibit F (page nos. 207 and 208 of the petition paper book) submits that the conduct of the Respondent No.1 of not withdrawing the three proceedings despite the receipt of Rs. 58,27,066/- is malafide and amounts to abuse of the process of law. He relies on the decision of the Hon'ble Supreme Court in the case of *Rekha Sharad Ushir vs. Saptashrungi Mahila Nagari Sahkari Patsansta Ltd.*[1]. He submits that the Petitioners are therefore before this Court seeking the following reliefs:-

> *"A] The Hon'ble Court may kindly be pleased to issue appropriate writ, order or direction as this Hon'ble Court deems fit under circumstances so as to meet ends of justice and the Hon'ble Court may call for the records pertaining to S.C.C. NO.168110 OF 2025, S.C.C. NO. 168107 OF 2025, S.C.C. NO. 167585 OF 2025 pending before Learned Court of JOINT CJ.S.D. & ADDITIONAL C.J.M., PUNE filed by the Complainant i.e. Respondent No.1 against the Petitioners and the same may be quashed and set aside;*
>
> *B] That pending the hearing and final disposal of the present Petition, the further proceedings under S.C.C. NO. 168110 of 2025, S.C.C. NO. 168107 OF 2025, S.C.C. NO. 16785 OF 2025 pending before Learned Court of JOINT CJ.S.D. & ADDITIONAL C.J.M. PUNE may kindly be stayed;*
>
> *C] The Petitioner may kindly be compensated for causing harassment to the Petitioners under the present case as this Hon'ble Court deems fit under the circumstances;*
>
> *D] For interim and ad-interim reliefs in terms of prayer clause (A), (B) and (C) above;*
>
> *E] For such other and further reliefs as the nature and circumstances of the case may require and thought fit by this Hon'ble Court."*

7. Mr. Sukanta Karmakar, APP for State, submits that no case is made out by the Petitioners for invoking the extraordinary jurisdiction of this Court.

1 2025 SCC OnLine SC 641

8. Perused the records with the assistance of the Mr. Rohit Karhadkar and Mr. Sukanta Karmakar.

9. Records reveal that the Magistrate took cognizance of the said three complaints vide order dated 16.10.2025 and issued process against the Petitioners. Order dated 16.10.2025 is transcribed herein below.:-

"ORDER BELOW EXH. 1 IN S.C.C.NO. 168110/2025:-

Read the complaint and evidence affidavit. Perused the documents produced on record. Heard Ld. Advocate for the complainant. The complainant submitted the names of witnesses to be examined. Considering the submissions and the documents on record, it prima facie reveals that the accused issued cheque in favour of the complainant for repayment of legally enforceable debt. The said cheque was dishonoured. Thereafter in spite of issuance of demand notice the accused failed to pay the cheque amount within statutory period to the complainant. There is sufficient material to proceed against the accused. The inquiry under section 23 of BNSS is conducted only by examination of documents. In case law of Ashok Siddapa Bankar Vs. Fayaz Aahmad Aurangzeb Naikar, Criminal Petition No. 105114 of 2025 the Hon'ble High Court of Karnataka, Dharwad Bench held that since Negotiable Instrument Act, 1881 is special enactment and in view of Section 5 BNSS r/w. section 143 of the NI. Act as far as the cases tried by the magistrate under Section 138 of the N.I. Act, there is no need for the magistrate to give an opportunity of being heard to the accused as per Section 223 of the BNSS, before taking cognizance on the complaint of payee/holder in due course of cheque for offence punishable under Section 138 of the N.I. Act.

2. Therefore, considering the ratio laid down in above said case law, there is no necessity to give an opportunity of being heard to the accused as per Section 223 of the BNSS. As discussed above there is sufficient materials on record to proceed against the accused for offence punishable under Section 138 of the Negotiable Instruments Act. Hence, Order:

Order

Vide Section 227 of the Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS), issue process against the accused No.1 to 5 for an offence punishable under section 138 of the Negotiable Instruments Act. "

(“*emphasis supplied*”).

10. Petitioners have raised the following grounds in the memo of petition:-

"I] The Petitioners submit that the Petitioners have discharged entire liability of all the 3 cheques involved in the aforesaid 3 Complaints on 05.11.2025 and on the date of issuance of bailable warrants there was no liability on the part of the Petitioners under any of the cheque which are part of the 3 Complaints filed by the Complainant.

II] The Petitioners submit that the bailable warrants have been issued by the Learned Court of JOINT CJ.S.D. & ADDITIONAL C.J.M., PUNE under the aforesaid Complaints merely at the request of the Complainant and upon misleading and concealing of the fact of receipt of payments by the Complainant.

III] The Petitioners submit that the concealment of vital fact of receipt of entire payment by the Complainant is serious and *malfide and the same has caused enormous hardships and harassment to the Petitioners as the concealment and misleading of the Learned Trial Court by the Complainant has resulted into issuance of bailable warrants against the Petitioners <u>on 27.11.2025 even though there was no payment due under the respective cheques</u> which were the subject matter of the aforesaid 3 Complaints.*

IV] The Petitioners submit that the Complainant was under an obligation to disclose the fact of receipt of entire payment to the Learned Court of JOINT CJ.S.D. & ADDITIONAL C.J.M., PUNE with clean hands and such concealment of the facts and misleading the Learned Trial Court has resulted into serious injustice and prejudice towards the Petitioners.

V] The Petitioners submit that the overall conduct of the Respondent No.1 i.e. the Complainant in the concerned matters is arbitrary, malafide, unreasonable and absolutely an abuse of process of law and the Complainant intends to abuse the process of law further which deserves an interference by this Hon'ble Court.

VI] The Petitioners submit that <u>on the date of issuance of warrants on 27.11.025 against the Petitioners, there was no payment due under any of the cheques</u> which were the subject matter of the aforesaid 3 Complaints filed by the Complainant against the Petitioners and <u>hence issuance of the bailable warrants against the Petitioners is improper and illegal and an abuse of process of law under the circumstances</u>.

VII] The Petitioners submit that the Complainant has crossed *every limit of illegality and malafide conduct and further miselad the Learned Trial Court on 27.11.2025 by once again concealing the fact of receipt of entire payments under the aforesaid cheques under the aforesaid 3 Complaints which has further aggravated injustice on the Petitioners as the Learned Trial Court has issued bailable warrants against the Petitioners on the basis of misleading and false request of the Complainant.*

VIII] The Petitioners submit that this case otherwise deserves an interference of this Hon'ble Court under the circumstances."

("emphasis supplied")

11. Mr. Rohit Karhadkar learned Advocate for the Petitioners has sought to built a document-driven case, placing reliance on the emails dated 18.12.2025 and 19.12.2025 exchanged between the parties (page nos. 207 and 208), contending the same to be indubitable documents, as such the said emails are transcribed herein below:-

a) Petitioners email dated 18.12.2025:-

"From: Sanjay Salunkhe/Commercial & Controls/Harmony Organics <ssanjay@harmonyorganics.in>
Sent:m 18 December 2025 11:55
To: Bipin Shah <bjs@svschemical.com>
Cc:SandeepLotke/CFO*HarmonynOrganics* *<sandeep.lotke@harmonyoranics.in>; Ravi Nangia* Chairman/Harmony Organics <ravi@harmonyorganics.in>; Deepak Totla <deepak.totla@harmonyorganics.in>;Smita Jain / General Manager-Procurement/ HarmonyOrganics<smita.jain@harmonyorganics.in>; Purchase Harmony<purchase@ harmonyorganics.in>; Praful Dave- Sr. Advisor Strategic Procurment<Praful.Dave@harmonyorganics.in>; Sunil Shah <sunil.shah@ svschemical.com>; Atul Shah<atul.shah@svschemical.com>; Mohini Gaikwad<mohini.gaikwad@ svschemical.com>; Savita Abhonkar<admin@svschemical.com>

Subject: Re:[EXTERNAL E-MAIL] Re: Regarding settle the account against issued the cheques.

Dear Bipin bhai

With regard to your case under Section 138 of the Negotiable Instruments Act, 1881, pertaining to seven cheques, we have already paid an amount of Rs.58,27,066.00 on 5.11.2025 against three of the cheques. The payment for the remaining four cheques will be made once you confirm the email below.

"Without Prejudice"
To,
Mr. Sunil Jayantilal Shah,

Partner, M/s. SVS Chemical Corporation LLP, Office at: 520, Rasta Peth, Mahavir Palace, 1st floor, Flat no. 1 and 2, Pune-411011

Subject: regarding mutual settlement of Complaints filed by you under Section 138 of the Negotiable Instruments Act, 1881 against Harmony Organics Pvt. Ltd. at Pune Court.

Dear Mr. Sunil Shah,
The following cases are filed by you against Harmony Organics Pvt. Ltd. before the Court of Hon'ble J.M.F.C., Pune and same are pending as on date:

Sr. No.	S.C.C.No.	Cheque No. and Amount
1.	SCC 168110/2025	"963749 dated 04.07.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.16,54,135/-
2.	SCC 167585/2025	"963748" dated 27.06.2025 drawn on Axis Bank Ltd., CBB Pune for an amount of Rs.23,,07,247/-.
3.	SCC 168107/2025	"963750" dated 11.07.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.18,65,684/-.
4.	SCC 179710/2025	"963751" dated 18.07.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.17,91,228/-.

5.	SCC 180179/2025	"963892" dated 18.07.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.7,70,665/-.
6.	SCC 180181/2025	"963891" dated 25.07.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.7,69,147/-.
7.	SCC 180183/2025	"963913" dated 15.08.2025 drawn on Axis Bank Ltd., CBB, Pune for an amount of Rs.8,97,454/-

In view of mutual discussions and taking into consideration the business relationships and saving the time and costs in fighting the above litigation in Court we have already settled the 3 (Three) matters listed at Sr. No. 1, 2 and 3 above by paying the entire amounts of the cheques mentioned there and we hereby propose to settle the remaining 4 (Four) matters at Sr. No. 4, 5, 6 & 7 as follows:

A) We agree to pay the entire amounts of cheques mentioned at Sr. No. 4, 5, 6 & 7 being Rs.17,91,228/-, Rs.7,70,665/- Rs.7,69,147/- and Rs.8,97,454/- total amount being Rs.42,28,494/-towards full and final settlement of all the remaining 4 (Four) matters as aforesaid

B) As you have already received entire amounts of cheques at Sr. No. 1, 2 & 3, the entire liability of Harmony Organics Pvt. Ltd, its Directors and/ Officers with regards to the aforesaid cheques stands discharged fully and completely. However, the said matters are still pending as on date.

C) Upon receipt of the above-mentioned total amount of Rs.42,28,494/, you agree to withdraw all the 7(Seven) matters unconditionally within 2 (Two) days from the date of receipt of the aforesaid amount at your end and share the supporting details/documents of the disposal of all the matters.

C) Upon the receipt of the above amount at your end as mentioned hereinabove, you ensure that no claim/s, demands of any nature shall be made against Harmony Organics Pvt. Ltd, its Directors and/ Officers by you with respect to the cheques and amounts mentioned hereinabove in any circumstances whatsoever and the entire liability of Harmony Organics Pvt. Ltd, its Directors and/ Officers stands discharged fully and completely.

D) At the time of seeking disposal of the matters as aforesaid, you ensure that the process of any nature issued by the Hon'ble Court under the above matters, including bailable warrants, shall not be executed further in any manner whatsoever against Harmony Organics Organics Pvt. Ltd, its Directors and/ Officers in any manner whatsoever upon your request to the Hon'ble Court,

El You ensure to cooperate and do the needful to take all the necessary steps so as to seek the disposal of all the above matters as aforesaid.

We request you to communicate your confirmation on the above proposal at the earliest so as to proceed further accordingly Kindly note that this communication of proposal as aforesaid is made to you without prejudice to our rights under the law.

Thank you.

Sanjay S Salunkhe

For Harmony Organics Pvt. Ltd.

("emphasis supplied").

b) Email dated 19th December, 2025 of Respondent No.1 :-

"Dear Sir,

I am in receipt of your email dated 18/12/2025. Reply thereto is as under:

1. At the outset, I would like to state that after filing of the 7 cases under S.138 of N.I. Act there were no mutual discussions for any 'settlement' between Harmony Organics Pvt. Ltd. And us. I do not agree to the contents of your email. No such discussion ever took place. We never agreed to withdraw the seven cases unconditionally within 2 days of receipt of the amount of cheques.

2. You have on your own accord directly transferred an amount of Rs.58,27,066/- in our bank account, probably realizing the consequences of the case. The said amount is considered 'on account' and not towards any specific case. Please note that payment of

Rs.58,27,066/- shall not absolve you from the dues payable to us.

3. I would like to bring to your notice that besides this, an amount of Rs.42,28,494/- is still due and payable by you towards the principal liability. We have incurred huge expenses due to your non-payment. We have also suffered business loss due to delayed payment by you. As on date, the total amount of interest for delayed payment and the expenses incurred by us is Rs.25,19,469/- . You are liable to pay Rs.25,19,469/- in addition to the principal liability of rs.42,28,494/-.

4. We are surprised by your statement that the balance principal liability will be paid after we confirm the contents of your email. You cannot compel us to agree to unfair terms. The transactions that took place between us are commercial in nature and the same arise out of goods supplied to you. We would like to bring to your kind notice that you were already awarded a credit period of 120 days by us. Despite long credit period, you failed and neglected to pay our legitimate dues. You have delayed our payment unjustly and unreasonably. Despite this, you are asking us to settle with the principal amount only. Your conduct a unfair and against the business ethics. You are expected to act fairly and pay us the principal liability along with the interest and expenses. Please note that we are not bound to withdraw the cases unless all our dues are paid.

5. If you want to show your bonafides to settle the dispute, you can transfer the principal liability of Rs.42,28,494/- along with Rs.25,19,469/- towards interest and expenses incurred by us till date.

May good counsel prevail over you."

("emphasis supplied").

12. Afore-referred email/s indicates that the deposit of the amount of Rs. 58,27,066/- on 05.11.2025, in the account of the Respondent No.1, to be a unilateral act of the Petitioners. Respondent No.1 by its email dated 19.12.2025, has disputed the claim of the Petitioners of the subject matter of the said three proceedings being settled or the Respondent No.1 having agreed to withdraw the said three proceedings. On the contrary, Respondent No.1 has made reference to the

Petitioners being liable to pay further amount of Rs.42,28,494/- plus an amount of Rs. 25,19,469/- to the Respondent No.1, in addition to Rs.58,27,066/- paid on 05.11.2025. Respondent No.1 has decliened to withdraw the said three proceedings. Adjudication of the claims / counter claims and/ or the contentions of the Petitioners and the Respondent No.1 in the emails dated 18.12.2025 & 19.12.2025, would require enquiry and adducing of evidence.

13. The Hon'ble Supreme Court in the case of **Rathish Babu Unnikrishnan vs. State (NCT of Delhi)**[2] in paragraph no. 17, 18 and 19 has made the following observations.

> *"17. The proposition of law as set out above makes it abundantly clear that the court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.*
>
> *18. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality*

2 2022 (20) SCC 661

without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e. the trial court is ousted from weighing the material evidence. If this is allowed, the accused may be given an unmerited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appe*llant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.*

19. Situated thus, to non-suit the complainant, at the stage of the summoning order, when the factual controversy is yet to be canvassed and considered by the trial court will not in our opinion be judicious. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited."

14. Facts of the Petitioners having knowledge of the pendency of the said three proceedings; the order dated 16.10.2025 passed by the Magistrate issuing process; and the Petitioners being served with the Summons pursuant to the order dated 16.10.2025 are not in dispute.

15. On 27.11.2025, Bailable warrants were ordered to be issued by the Magistrate against the Petitioners. Order dated 27.11.2025 is transcribed herein below:-

> "*Inspite of service of summons. The Accused remained absent. Hence, issue B.W. of Rs.2000/- (each) against the Accused.*"

16. Reason for issuance of the Bailable warrant is the non-appearance of the Petitioners on the date fixed in the said proceedings, despite service of Summons. Even if the contentions of the Petitioners as sought to be putforth in this Petition are considered for the sake of arguments, than in such an event also the Petitioners were legally obliged to appear before the Magistrate on the date fixed in the said three proceedings. Reason put forth by the Petitioners that too in ths petition for ignoring the date fixed before the Magistrate and absenteeing themself, cannot be countenanced. Magistrate was justified in issuance of Bailable warrant on 27.11.2025, for the failure of the Petitioners to appear on the date fixed. Purpose of issuance of the Bailable warrant was to ensure presence / appearance of the Petitioners before the Court.

17. Mr. Rohit Karhadkar by relying on paragraph no. 11

in the case Rekha Sharad Ushir (*supra*) submits that the criminal proceeding filed by the Respondent No.1 are required to be quashed, same being abuse of process of law. He vociferously submits that act of the Respondent No. 1 in not disclosing the receipt of the amount of Rs. 58,27,066/-, to the Magistrate amounts to concealment and suppression of vital facts. He submits that had the Respondent No. 1 disclosed the payments made by the Petitioners, the said three proceedings would have been dismissed. Mr. Rohit Karhadkar insists for adjudication on the said contentions urged by him. Said contention is sought to be raised by the Petitioners for the first time before this Court in this petition filed under Article 226 of the Constitution of India and Section 528 of the BNSS. Be that as it may, it is on the insistence of Mr. Rohit Karhadkar, that I proceed to deal with the said contention urged by him.

18. The Hon'ble Supreme Court in the case of Rekha Sharad Ushir (supra) in para 11 has observed as under:-

> "*11. It is settled law that a litigant who, while filing proceedings in the court, suppresses material facts*

or makes a false statement, cannot seek justice from the court. The facts suppressed must be material and relevant to the controversy, which may have a bearing on the decision making. Cases of those litigants who have no regard for the truth and those who indulge in suppressing material facts need to be thrown out of the court. In paragraph 5 of the decision of this Court in the case of S.P. Chengalvaraya Naidu v. Jagannath1, it is held thus:

> *"5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, taxevaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation."*

("emphasis supplied")

19. Sum and substance of the contention urged by Mr. Rohit Karhadkar is that upon the payment being made by the Petitioners on 05.11.2025, the same would result in dismissal of the said three proceedings and wiping out of the offence under Section 138 of the said Act.

20. To constitute an offence under section 138 of the Said Act the ingredients required to be fulfilled are referred to in the pronouncement of the Hon'ble Supreme Court in the case of Jugesh Sehgal vs. Shamsheer Singh Gogi[3]. Order dated 16.10.2025 issuing process in the said three proceedings is neither questioned nor challenged in this present petition. Mr. Rohit Karhadkar states that the Petitioners have not challenged the order dated 16.10.2025 issuing process. It is trite law that mere repayment of the amount cannot mean that the Appellant is absolved from the criminal liabilities under section 138 of the Said Act.

21. In the instant case, Respondent No.1 has specifically refused to withdraw or to consent for withdrawal of the said three proceedings. In such circumstance payment made by

3 2009 (14) SCC 683.

the Petitioners on 05.11.2025, which is admittedly effected after the order dated 16.10.2025 issuing process, does not help the case of the Petitioners. Emails dated 18.12.2025 & 19.12.2025 do not support the case of suppression or concealment as sought to be put forth by the Petitioners in this petition. Decision in the case of Rekha Sharad Ushir (supra) does not assist the case of the Petititioners.

21. Section 147 of the Said Act provides for compounding of the offences under Section 138 of the Said Act. Mr. Rohit Karhadkar fairly submits that apart from the documents appended to this petition, there is no other document evincing settlement between the Petitioners and the Respondent No. 1. Respondent No.1 does not agree for the compounding of the offence (email dated 19.12.2025). Compounding of offence under Section 138 of the said Act would require consent of the complainant. Useful reference can be made to the decision of the Hon'ble Supreme Court in the case of Raj Reddy Kallem v/s The State of Harayana[4]. Paragraph nos. 14 to 21 are extracted herein:-

14. As per Section 147 of the NI Act, all offences

4 2024(8) SCC 588

punishable under the Negotiable Instruments Act are compoundable. However, unlike Section 320CrPC, the NI Act does not elaborate upon the manner in which offences should be compounded. To fill up this legislative gap, a three-Judge Bench of this Court in Damodar S. Prabhu v. Sayed Babalal H. [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] , passed some guidelines under Article 142 of the Constitution of India regarding compounding of offence under Section 138 NI Act. But most importantly, in that case, this Court discussed the importance of compounding offence under Section 138 of the NI Act and also the legislative intent behind making the dishonour of cheque a crime by enacting a special law. This Court had observed that : (SCC p. 666, paras 4-5)

"4. … What must be remembered is that the dishonour of a cheque can be best described as a regulatory offence that has been created to serve the public interest in ensuring the reliability of these instruments. The impact of this offence is usually confined to the private parties involved in commercial transactions.

> *5. Invariably, the provision of a strong criminal remedy has encouraged the institution of a large number of cases that are relatable to the offence contemplated by Section 138 of the Act. So much so, that at present a disproportionately large number of cases involving the dishonour of cheques is choking our criminal justice system, especially at the level of Magistrates' Courts."*

15. Further, after citing authors pointing towards compensatory jurisprudence within the NI Act, this Court observed that : (Damodar S. Prabhu case [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] , SCC p. 670, para 18)

> *"18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect."*

16. This Court has time and again reiterated that in cases of Section 138 of the NI Act, the accused must try for compounding at the initial stages instead of the later stage, however, there is no bar to seek the compounding of the offence at later stages of criminal proceedings including after conviction, like the present case (see : K.M. Ibrahim v. K.P. Mohammed [K.M. Ibrahim v. K.P. Mohammed, (2010) 1 SCC 798 : (2010) 1 SCC (Civ) 263 : (2010) 1 SCC (Cri) 921] and O.P. Dholakia v. State of Haryana [O.P. Dholakia v. State of Haryana, (2000) 1 SCC 762 : 2000 SCC (Cri) 310]).

17. In the case at hand, initially, both sides agreed to compound the offence at the appellate stage but the appellant could not pay the amount within the time stipulated in the agreement and the complainant now has shown her unwillingness towards compounding of the offence, despite receiving the entire amount. The *appellant has paid the entire Rs 1.55 crores and further Rs 10 lakhs as interest.*

18. As far the requirement of "consent" in compounding of offence under Section 138 NI Act is concerned, this Court in JIK Industries Ltd. v. Amarlal V. Jumani [JIK Industries Ltd. v. Amarlal V. Jumani, (2012) 3 SCC 255 : (2012) 2 SCC (Civ) 82 : (2012) 2 SCC (Cri) 125] denied the suggestion of the appellant therein that "consent" is not mandatory in compounding of offences under Section 138 of the NI Act. This Court observed that : (SCC pp. 271-72, paras 57-59)

> *"57. Section 147 of the Negotiable Instruments Act reads as follows:*
>
> > *'147. Offences to be compoundable.— Notwithstanding anything contained in the Criminal Procedure Code, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.'*
>
> *58. Relying on the aforesaid non obstante clause in Section 147 of the NI Act, the learned counsel for the appellant argued that a three-Judge Bench decision of this Court in Damodar [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] , held that in view of non obstante clause in Section 147 of the NI Act, which is a special statute, the requirement of consent of the person*

> *compounding in Section 320 of the Code is not required in the case of compounding of an offence under the NI Act.*
>
> *59. This Court is unable to accept the aforesaid contention for various reasons....”*

19. Further this Court observed in para 82 of the said judgment that : (JIK Industries case [JIK Industries Ltd. v. Amarlal V. Jumani, (2012) 3 SCC 255 : (2012) 2 SCC (Civ) 82 : (2012) 2 SCC (Cri) 125] , SCC p. 276)

> *“82. ... Section 147 of the NI Act must be reasonably construed to mean that as a result of the said section the offences under the NI Act are made compoundable, but the main principle of such compounding, namely, the consent of the person aggrieved or the person injured or the complainant cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.”*

20. This Court in Meters & Instruments (P) Ltd. v. Kanchan Mehta [Meters & Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560 : (2018) 1 SCC (Civ) 405 : (2018) 1 SCC (Cri) 477] after discussing the series of judgments including JIK Industries [JIK Industries Ltd. v. Amarlal V. Jumani, (2012) 3 SCC 255 : (2012) 2 SCC (Civ) 82 : (2012) 2 SCC (Cri) 125] observed that even in the absence of “consent” court can close criminal proceedings against an accused in cases of Section 138 *of the NI Act if the accused has compensated the complainant. The exact words of this Court were as follows : (Kanchan Mehta case [Meters & Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560 : (2018) 1 SCC (Civ) 405 : (2018) 1 SCC (Cri) 477] , SCC p. 572, para 18.3)*

> *"18.3. Though compounding requires consent of both parties, even in absence of such consent, the court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused."*

In our opinion, Kanchan Mehta [Meters & Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560 : (2018) 1 SCC (Civ) 405 : (2018) 1 SCC (Cri) 477] nowhere contemplates that "compounding" can be done without the "consent" of the parties and even the above observation of Kanchan Mehta [Meters & Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560 : (2018) 1 SCC (Civ) 405 : (2018) 1 SCC (Cri) 477] giving discretion to the trial court to "close the proceedings and discharge the accused", by reading Section 258 ["258. Power to stop proceedings in certain cases.—In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such *stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge."] CrPC, has been held to be "not a good law" by this Court in the subsequent five-Judge Bench judgment in Expeditious Trial of Cases Under Section 138 of NI Act, 1881, In re [Expeditious Trial of Cases Under Section 138 of NI Act, 1881, In re, (2021) 16 SCC 116, para 20] .*

21. All the same, in this particular given case even though the complainant has been duly compensated by the accused yet the complainant does not agree for the compounding of the offence, the courts cannot compel the complainant to give "consent" for compounding of the matter. It is also true that mere repayment of the amount cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of the NI Act. But this case has some peculiar facts as well."

22. Proceedings before the Magistrate are at pre-trial stage.

23. For the reasons recorded herein above, Petition is devoid of merits, as such dismissed. No orders as to costs..

(ASHWIN D. BHOBE, J.)