



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-22083-2022 (O&M)
Date of decision: 15.01.2026

Anil Kumar

....Petitioner

Versus

M/s Religare Finvest Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vivek Goyal, Advocate for the petitioner

Mr. Nitin Thatai and Ms. Shruti Sharma, Advocates
for the respondent

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing of criminal complaint No.NACT-14879-2018, M/s Religare Finvest Ltd. vs. Tara Chand Rice Mills and Another dated 10.07.2018, under Section 138 of Negotiable Instruments Act ('NI Act' in short) as well as summoning order passed in above said complaint vide order dated 13.07.2018, Annexure P-2.

2. Learned counsel for the petitioner submits that the legal notice for dishonor of cheque was served on 28.05.2018, however, prior thereto, IRP was appointed on 16.03.2018 and as such, he was not in a position to fulfil the demand raised by the aforesaid notice issued under Section 138 NI Act, on account of having been suspended as Director and thus, the management was not responsible. This aspect has been duly dealt with by Hon'ble the Supreme Court in the case of **Vishnoo Mittal vs. Shakti Trading Co.**, (2025) 9 SCC



417, relevant para whereof reads thus:

“ 11. The bare reading of the above provision shows that the appellant did not have the capacity to fulfil the demand raised by the respondent by way of the notice issued under clause (c) of the proviso to Section 138 NI Act. When the notice was issued to the appellant, he was not in charge of the corporate debtor as he was suspended from his position as the director of the corporate debtor as soon as IRP was appointed on 25.07.2018. Therefore, the powers vested with the board of directors were to be exercised by the IRP in accordance with the provisions of IBC. All the bank accounts of the corporate debtor were operating under the instructions of the IRP, hence, it was not possible for the appellant to repay the amount in light of section 17 of the IBC. Additionally, we have been informed on behalf of the appellant that, after the imposition of the moratorium, the IRP had made a public announcement inviting the claims from the creditors of the Corporate Debtor and the respondent has filed a claim with the IRP.”

3. The factum of IRP being appointed prior to the dishonour of the cheque could not be refuted by learned counsel for the respondent, who was even despite best best efforts, not able to draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, as such the present petition is allowed and the criminal complaint No.NACT-14879-2018, as also the summoning order dated 13.07.2018 stand quashed, qua the petitioner.

(AMAN CHAUDHARY)
JUDGE

15.01.2026
M.Kamra

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No