



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

135

CRM-M-22159-2023 (O&M)
Date of decision: 15.01.2026

Harish Kumar

....Petitioner

Versus

Krishan Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sanchit Chaudhary, Advocate for the petitioner
(Through Hybrid Mode)

Mr. Sanawar Ali, Advocate for the respondent

AMAN CHAUDHARY, J.

1. Prayer made in the present petition is for quashing of complaint No.38/2019 dated 12.02.2019 and all proceedings arising against the petitioner under Section 138 of NI Act.

2. Learned counsel submits that admittedly the cheque in question dated 16.12.2018, Annexure P-6, has been drawn by the petitioner as authorised signatory of M/s AHN Network Pvt Ltd., however, a perusal of the complaint, Annexure P-5 reveals that the said company has not been made as an accused and the same thus, cannot continue against him, till such time, the company is arraigned.

3. The issue is no longer *res integra*. The judgment in **Aneeta Hada vs. M/s Godfather Travels and Tours Pvt. Ltd.**, (2012) 5 SCC 661, governs this area of dispute wherein the issue that fell for consideration before Hon'ble the Supreme Court, was whether an authorized signatory of a company would be liable for prosecution under Section 138 without the company being arraigned as



arraigning of a company as an accused is imperative, only then can the other categories of offenders be brought in the dragnet on the touchstone of vicarious liability as the same has been stipulated in the provision itself, it was held thus:-

“58. Applying the doctrine of strict construction, we are of the considered opinion that commission of offence by the company is an express condition precedent to attract the vicarious liability of others. Thus, the words “as well as the company” appearing in the section make it absolutely unmistakably clear that when the company can be prosecuted, then only the persons mentioned in the other categories could be vicariously liable for the offence subject to the averments in the petition and proof thereof. One cannot be oblivious of the fact that the company is a juristic person and it has its own respectability. If a finding is recorded against it, it would create a concavity in its reputation. There can be situations when the corporate reputation is affected when a director is indicted.”

4. Notably, the petitioner was summoned to face the trial in the complaint without M/s AHN Network Pvt Ltd. being either named as an accused or summoned thereunder, a fact, that remained unrebutted at the hands of learned counsel for the respondent, who, despite best efforts, was unable to draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, in view of which, the present petition is allowed.
5. As a consequence to the above, COMA NO.38/2019 and summoning order dated 12.02.2019 are quashed, qua petitioner.

(AMAN CHAUDHARY)
JUDGE

15.01.2026
M.Kamra

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