2026:PHHC:012967

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-35924-2024 (O&M)
Date of decision: 29.01.2026

Mudit Luthra **...Petitioner**

Versus

M/s Sai Packers **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Anand Kaushal, Advocate
for the petitioner.

Mr. Mitul Singh Rana, Advocate
for the respondent.

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MANISHA BATRA, J. *(Oral)*

1. The instant petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of complaint bearing NACT No. 4479 of 2023 titled as ***M/s Sai Packers vs. M/s Modern Infotech and others***, filed under Section 138 of Negotiable Instruments Act, 1881 *(for short 'NI Act')*, which is pending before the Court of learned Judicial Magistrate First Class, Jalandhar along with all the subsequent proceedings having emanated therefrom including the order dated 26.10.2023, whereby the petitioner had been ordered to be summoned as an accused and had been called upon to appear and to face trial for commission of aforementioned offence.

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2. Brief facts of the case relevant for the purpose of disposal of present petition are that the respondent/complainant was doing the business of manufacturing of adhesive tapes. Accused No. 2 Suresh Kumar Luthra and accused No. 3/petitioner Mudit Luthra, being partners in the firm M/s Modern Infotech (arraigned as accused No. 1 in the complaint) had business dealings with the complainant. The complainant had supplied certain goods to accused Nos. 2 and 3 against proper invoices. In order to clear the outstanding dues, they issued a cheque bearing No. 000049 dated 28.06.2023 for a sum of Rs.18,11,434/- drawn on Bandhan Bank, Amritsar with an assurance that the same would be encashed on its presentation. However, the same was dishonoured on its presentation with the remarks 'funds insufficient'. Despite, legal notice being served, the accused did not pay the amount of cheque in question to the complainant, thereby compelling the respondent to file the aforementioned complaint.

3. On presentation of the complaint and after recording of preliminary evidence produced by the respondent, the learned trial Magistrate, vide order dated 26.10.2023, summoned the accused including petitioner to face trial for commission of offence punishable under Section 138 of the N. I. Act. The petitioner has prayed for quashing of the complaint as well as the summoning order by filing the present petition.

4. It is argued by learned counsel for the petitioner that the impugned complaint as well as the summoning order are not sustainable in the eyes of law and are liable to be set aside as while passing the impugned

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summoning order, the learned trial Court ignored the fact that the cheque in question was not issued by the petitioner as he was neither any partner in the aforementioned firm nor he was a signatory to the cheque in dispute nor was the drawer of the same. The prosecution of the petitioner under the impugned complaint is nothing but a sheer abuse of process of law. Hence, it is urged that the petition deserves to be allowed and the impugned complaint as well as the summoning order are liable to be set aside.

5. Mr. Mitul Singh Rana, Advocate has appeared on behalf of the respondent/complainant and has filed power of attorney. He has very fairly conceded that the petitioner was neither partner in the aforementioned firm nor was he signatory to the cheque in dispute nor was he the drawer of the same. It is also admitted that the petitioner was not even a person, who was responsible for day to day affairs of the said firm.

6. This Court has heard the submissions made by learned counsel for the parties.

7. It is not in dispute that the cheque in question was neither issued nor signed by the petitioner. It is also an admitted position, as fairly conceded by learned counsel appearing for the respondent-complainant, that the petitioner was neither a partner of M/s Modern Infotech nor was he responsible for the day-to-day affairs of the said firm at the relevant time. The petitioner was also not the drawer of the cheque forming the basis of the complaint. Section 138 of the N. I. Act fastens criminal liability primarily upon the drawer of the cheque. Vicarious liability under Section 141 of the N.

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I. Act can be attracted only in respect of those persons who, at the time of commission of the offence, were in charge of and responsible for the conduct of the business of the firm. Mere naming of a person as an accused, without specific averments or material to show his role in the conduct of the business of the firm, is not sufficient to sustain criminal prosecution. In the present case, the respondent has candidly admitted that the petitioner had no such role. Therefore, the essential ingredients required to attract vicarious liability under Section 141 of the N. I. Act are conspicuously absent. The summoning order dated 26.10.2023 has been passed in a mechanical manner, without adverting to the basic legal requirement regarding fastening of criminal liability upon a person who is neither the drawer of the cheque nor connected with the affairs of the firm. Continuation of the criminal proceedings against the petitioner in such circumstances would amount to a clear abuse of the process of law.

8. In view of the above facts and settled legal position, this Court is of the considered opinion that the impugned complaint, insofar as it relates to the petitioner, as well as the summoning order dated 26.10.2023, cannot be sustained. Accordingly, the present petition is allowed and the complaint bearing NACT No. 4479 of 2023 titled ***M/s Sai Packers vs. M/s Modern Infotech and others***, along with all consequential proceedings arising therefrom, is hereby quashed qua the petitioner.

29.01.2026 **[MANISHA BATRA]**
Waseem Ansari **JUDGE**

1. Whether speaking/ reasoned : Yes/No
2. Whether reportable : Yes/No

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