



2026:DHC:1106



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Reserved on: 10th November, 2025***
Pronounced on: 09th February, 2026
+ **CRL.M.C. 206/2021, CRL.M.A. 6385/2022 , CRL.M.A. 6979/2022**
and CRL.M.A. 8548/2025.

1. **MR. ASHWINI KUMAR SINGH**
NE Independent Director
C/o M/s MBL Infrastructures Ltd.
At-Baani Corporate One Tower,
Suite # 303, 3rd Floor,
Plot No.5, District Commercial Centre,
Jasola, New Delhi- 110025
2. **MR. DARSHAN SINGH NEGI**
C/o M/s MBL Infrastructures Ltd.
At-Baani Corporate One Tower,
Suite # 303, 3rd Floor,
Plot No. 5, District Commercial Centre,
Jasola, New Delhi- 110025
3. **MS. SUNITA PALTA**
NE Independent Director
C/o M/s MBL Infrastructures Ltd.
At-Baani Corporate One Tower
Suite # 303, 3rd Floor
Plot No. 5, District Commercial Centre
Jasola, New Delhi- 110025
4. **MR. BHAGWAN SINGH DUGGAL**
NE Independent Director
C/o M/s MBL Infrastructures Ltd.
At-Baani Corporate One Tower
Suite # 303, 3rd Floor

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Plot No. 5, District Commercial Centre

....Petitioners

Through: Ms. Anusuya Salwan and Mr. Rachit Wadhwa, Advocates.

versus

M/S VYAGRAH INFRASTRUCTURES PVT. LTD.

Through its Director Mr. Ajay Kumar Bansal

Flat No. 112, Sector 16B, Vasundhara

Ghaziabad (UP), PIN-201012

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*), has been filed on behalf of the **Petitioners** for setting aside *the Summoning Order dated 03.04.2018 passed Ld. MM in CC No.9804/2017 and quashing of CC No.9804/2017 under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act')*.

2. **Brief facts** are that Respondent/Complainant, *M/s Vyagrah Infrastructures Pvt. Ltd.* had filed CC No.9804/2017 under Section 138 NI Act against the Petitioners in respect of alleged dishonour of Cheque No.315005 dated 25.04.2017 for Rs.21,90,905/- drawn on Yes Bank, South Extension, New Delhi, due to '*insufficiency of funds*'.



3. Ld. MM, *vide* Order dated 03.04.2018, took cognizance of the said Complaint and summoned the Petitioners, among other accused and directed them to appear on 01.08.2018. On the next date of hearing, i.e. 01.08.2018, it was noticed that summons had not been issued against the Petitioners herein and summons were again directed to be issued on that day.
4. Accused Nos.1 and 2/M/s *MBL Infrastructures Limited and Mr. Anjaneer Kumar Lakhota* therein, were the Company and its Managing Director. Accused No.1 Company appeared before the Court of Ld. MM at the first instance, on 07.09.2018 through its counsel and authorized representative namely, *Dushyant Singh*. Accused No.2 also appeared in response to the summons in the Complaint Case.
5. *Notice under Section 251 Cr.P.C. was framed against him, to which, he pleaded not guilty.*
6. **Petitioners have challenged Summoning Order and the Complainant against them on the ground** that they are neither the Managing Director nor Signatory to the Cheque in question. Moreover, in the absence of necessary and mandatory averments of '*in charge of, and responsible for the conduct of business of the company*' which is *sine qua non* for the vicarious liability under Section 141 NI Act, Petitioners have been wrongly summoned in the present case.
7. Reliance is placed on *S.M.S. Pharma vs. Neeta Bhalla*, (2005) 8 SCC 89; *National Small Industries Corporation vs. Harmeet Singh Paintal and Anr.*, (2010) 3 SCC 330; and *State of Haryana vs. Bhajan Lal and Ors.*, 1992 Supp (1) SCC 335.



8. It is further submitted that Petitioner Nos.1, 3 and 4, namely, *Mr. Ashwini Kumar Singh, Ms. Sunita Palta and Mr. Bhagwan Singh Duggal* are **Non-Executive and Independent Directors of the Accused Company**. Petitioner No.2/*Mr. Darshan Singh Negi* has been erroneously described, in the Memo of Parties, as a Director, while he is the **Chief Financial Officer (CFO) of the Company**. Therefore, their roles, as statutorily defined under Companies Act, 2013, do not sustain summoning.

9. An **Independent, Non-Executive Director**, as defined in Sections 149 and 150 of the Indian Companies Act, 2013 as well as SEBI (Securities and Exchange Board of India) Listing Agreement and RBI Master Circular {RBI/2012-13/43 dated 02.07.2012}, describes that they have connection with management of the Company and only serve a statutory function in view of the mandatory requirement in law for a listed Public Company like the Accused Company, which is supposed to have one-half of the Directors on its board as Independent Directors.

10. Reliance is placed on *Pooja Ravinder Devidasani vs. State of Maharashtra & Anr.*, (2014) 16 SCC 1; *Chintalapati Srinivasa Raju vs. SEBI*, 2018 SCC OnLine SC 586; *Sunita Palta and Ors vs. M/s Kit Marketing Pvt. Ltd.*, CRL.M.C.1410/2018; and *Sudeep Jain vs. ECE Industries Ltd.*, 201 (2013) DLT 461.

11. Reliance is placed on *K.P. Balraj vs. Raja Arora*, CRL.M.C.3303/2016 decided on 23.02.2017, wherein a Co-ordinate Bench of this Court had referred to Indian Companies Act, 2013 as well as SEBI Listing Agreement and RBI Master Circular, to hold that Independent



Directors cannot be in charge of management of Company and the Complaint was quashed against them.

12. Furthermore, Petitioner Nos.1 and 4, namely, *Mr. Ashwini Kumar Singh* and *Mr. Bhagwan Singh Duggal* were also under suspension by operation of law, on the date of accrual of cause of action, since the Accused Company was undergoing insolvency proceedings under the Insolvency and Bankruptcy Code, 2016 *vide* order dated 30.03.2017 before the NCLT, Kolkata. The said insolvency was declared *vide* a Public Notice issued a day or two after said Order and the entire Board of the Accused Company was replaced by an NCLT appointed Insolvency Resolution Professional (IRP).

13. *Therefore, prayer is made that Summoning Order dated 03.04.2018 passed Ld. MM in CC No.9804/2017 be set aside and CC No.9804/2017 under Section 138 NI Act be quashed.*

14. **Reply has been filed on behalf of the Respondent/M/s Vyagrah Infrastructures Pvt. Ltd.** wherein the contentions made by the Petitioners are opposed.

15. It is submitted that that the Petitioners have wilfully concealed about the Revision Petition preferred by the Petitioners before Ld. District and Sessions Judge, South East District, Saket Court bearing No.159/2020 titled '*Darshan Singh Negi vs. M/s Vyagrah Infrastructure Pvt. Ltd.*' seeking the same relief. The said Petition was dismissed as withdrawn.

16. The accused Company and its Chief Managing Director have also filed a Petition under Section 482 Cr.P.C titled '*MBL Instrastructure vs. M/s Vyagrah Infrastructures Pvt. Ltd.*', *Crl. M.C. No. 2510/2019* seeking similar relief of quashing of summoning Order dated 03.04.2018.



17. The accused Company has duly replied to the legal demand Notice vide Letter dated 26.07.2017 where they stated that “*we are in receipt of your legal notice dated 10.07.2017. We had issued Cheque No.315005 dated 25.04.2017 drawn on Yes Bank, D-12, South Ex. Part-II, New Delhi for Rs.21,90,905/- in full and final settlement, subject to your client vacating the site*”. The Petitioners were also served with a legal Notice. However, none of them have responded.

18. It is further submitted that there is no certified FORM 32 annexed with the Petition qua Petitioner No.1 and 3. It is doubtful that any such form was ever submitted before appropriate Authority. The electronic records are not submitted with a Section 65B Evidence Act Certificate.

19. It is further submitted that Petitioner No.2/Darshan Singh Negi is the “*Chief Financial Officer*” of the accused Company who, *Vide* letter 30.05.2016, gave consent to that effect.

20. *Hence, the present Petition is liable to be dismissed.*

21. **Rejoinder and Written Submissions** have been filed by the Petitioner essentially reiterating the grounds taken in the Petition.

Submissions heard and record perused.

22. Petitioner Nos.1, 3 and 4, namely, *Mr. Ashwini Kumar Singh, Ms. Sunita Palta and Mr. Bhagwan Singh Duggal* have sought setting aside of Summoning Order dated 03.04.2018 and quashing of CC No.9804/2017 against them, on the grounds that they are *Non-Executive and Independent Directors of the Company*.



23. Thus, first and foremost what needs to be ascertained is who is an Independent Director and under what circumstances can a Director be liable for the acts of an Accused Company?

24. Herein, reference can be made to **Section 2(47) Companies Act, 2013** which states that an “*independent Director*” means an independent Director referred to in sub-section (6) of Section 149.

25. Section 149(6) Companies Act, 2013 thus, defines that an independent Director is a director who is **not** a *Managing Director, Whole-Time Director, or Nominee Director*, and who meets specific criteria related to integrity, expertise, who has / *had no pecuniary relationship, other than remuneration as such Director, and independence from the Company’s promoters and Management. An independent director does not hold any security or interest in the Company or its subsidiary or associate company.*

26. Furthermore, **Section 149(12) of the Companies Act, 2013** provides a protective framework for Independent Directors and Non-Executive Directors (not being promoter or key managerial personnel), by *limiting their liability*. It holds them accountable only for acts of omission or commission by the Company that occurred with their knowledge, gained through Board processes, and with their consent, connivance, or due to their failure to act diligently.

27. Furthermore, it is trite law that under criminal jurisprudence is that where the accusations are against a Company of having committed a criminal offence, its Directors do not *ipso facto* become the accused persons.

28. In the present case, the Petitioners have substantiated their claim that they served as Non-Executive and Independent Directors of the accused



Company, for which they have placed reliance on FORM-32 DIR-12. Perusal of said form shows that indeed these three were the ***Independent and Non-Executive Directors of the Company***.

29. This aspect was considered in the case of Shiv Kumar Jatia vs. State of NCT of Delhi, (2019) 17 SCC 193 wherein the Apex Court reaffirmed its views in the case of Sunil Bharti Mittal (supra), where it was *inter-alia* held that Individual Directors can be made accused **only** if there is sufficient material to prove their active role coupled with criminal intent. The criminal proceedings were quashed against the accused, who was a *Managing/Non-Independent Executive Director*.

30. Similar observations have been made by the Apex Court in the case of K.S. Mehta vs. M/s Morgan Securities and Credits Pvt. Ltd., 2025 INSC 315 wherein the Complaint lacked specific averments that would have established a direct nexus between the Appellants and the financial transactions in question or demonstrate their involvement in the Company's financial affairs and the documents on record confirmed the *non-executive status of the Appellants/Directors, underscoring their limited role in governance without any Executive decision-making authority. It was held that merely because the Appellants/Directors attended Board Meetings, does not automatically translate into control over financial operations.* Hence, unless direct involvement of the Directors is established, they cannot be held vicariously liable under the Act, 1881.

31. ***In the present case***, the Complaints themselves admit that payments were made to the Accused No.1 Company, and not to any of the individual Petitioners. In view of aforesaid law and also considering that Petitioner



Nos.1, 3 and 4, namely, *Mr. Ashwini Kumar Singh, Ms. Sunita Palta* and *Mr. Bhagwan Singh Duggal* are Non-Executive Directors of the Company, they cannot be held in-charge / responsible for the day of day affairs of the Company. ***Therefore, Summoning Order dated 03.04.2018 passed Ld. MM in CC No.9804/2017 is set aside and CC No.9804/2017 under Section 138 NI Act is quashed against Petitioner Nos.1, 3 and 4, namely, Mr. Ashwini Kumar Singh, Ms. Sunita Palta and Mr. Bhagwan Singh Duggal.***

32. In so far as Petitioner No.2, *Mr. Darshan Singh Negi* is concerned, the position is materially different. It is not disputed that he was the Chief Financial Officer (CFO) of the Accused Company, at the relevant time. The role of a CFO, by its very nature, is intrinsically connected with the financial administration, accounting, and management of monetary transactions of the Company. Unlike Independent or Non-Executive Directors, a CFO forms part of the Key Managerial Personnel and is actively involved in the day-to-day financial affairs of the Company.

33. Herein, it is pertinent to refer to **Section 2(51) of the Companies Act, 2013**, which is reproduced as under:

“Section 2 (51) “key managerial personnel”, in relation to a company, means—
(i) the Chief Executive Officer or the managing director or the manager;
(ii) the company secretary;
(iii) the whole-time director;
(iv) the Chief Financial Officer;
(v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and
(vi) such other officer as may be prescribed”



34. Whether Petitioner No.2 actually exercised such control or had knowledge of the transaction is a matter of trial and cannot be conclusively adjudicated in proceedings under Section 482 Cr.P.C. ***Therefore, no ground is made out for interference with the Summoning Order qua Petitioner No.2.***

Conclusion:

35. Petition is allowed partially and Summoning Order dated 03.04.2018 passed Ld. MM in CC No.9804/2017 is set aside, and the proceedings under Section 138 NI Act against Petitioner Nos.1, 3 and 4, namely, *Mr. Ashwini Kumar Singh, Ms. Sunita Palta and Mr. Bhagwan Singh Duggal, is quashed.*

36. However, there is no ground to quash the summoning Order against Petitioner No.2, *Mr. Darshan Singh Negi, which is upheld and the Petition viz-a-viz him, is hereby, dismissed.*

37. Pending Applications, if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEB RUARY 09, 2026/R