



2026:DHC:1963



* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on: 18th December, 2025

Pronounced on: 10th March, 2026

+

W.P.(CRL) 2473/2017 & CRL.M.A. 14213/2017

SUBHASH C. SAHNI

.....Petitioner

Through: Mr. Dayan Krishnan, Senior Advocate with Mr. Rajiv Tyagi, Mr. Sridhar Kale, Mr. Rahul Tyagi and Mr. Rohit Gupta, Advocates

versus

STATE & ANR.

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates for the State
Mr. Yashvir Sethi, Mr. Amit Kumar Singh, Mr. Varun Maheshwari, Mr. Manan Soni and Mr. Pranav Sharma, Advocates for R-2

+

W.P.(CRL) 2479/2017 & CRL.M.A. 14242/2017

SUBHASH C. SAHNI

.....Petitioner

Through: Mr. Dayan Krishnan, Senior Advocate with Mr. Rajiv Tyagi, Mr. Sridhar Kale, Mr. Rahul Tyagi and Mr. Rohit Gupta, Advocates

versus

STATE & ANR.

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates for the State



Mr. Yashvir Sethi, Mr. Amit Kumar Singh, Mr. Varun Maheshwari, Mr. Manan Soni and Mr. Pranav Sharma, Advocates for R-2

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The aforesaid two Petitions have been filed under Section 482 Cr.P.C read with Article 227 of the Constitution of India for quashing the Complaint Case No.2216/2016 and 9984/2016 under Section 138 NI Act along with all the subsequent Order, including Order dated 05.05.2017.

2. *Briefly stated*, the Respondent/Complainant had filed three Complaints under Section 138 NI Act in respect of three cheques which when presented for encashment, were dishonoured, as detailed under :

Cheque No.	Date	Amount
616102	25.09.2014	Rs.20 lakhs
616104	26.12.2014	Rs.35 lakhs
616105	20.04.2015	Rs.40 lakhs

3. The Petitioner was summoned, *vide* Order dated 09.12.2015. The Petitioner filed an Application under Section 245 Cr.P.C for discharge, which has been dismissed, *vide* Order dated 05.05.2017.

4. The Petitioner has stated that he is a Non Resident Indian, having obtained his Engineering Degree from BITS, Pilani and Masters in Engineering from Illinois Institute of Technology, Chicago, USA. He is settled in USA, for the last 40 years.



5. Respondent No.2, Sh. Anil Sethi, his nephew, is a school dropout and an uneducated person who had lost his father at an early age. Being the maternal uncle of the Respondent/Complainant, with a view to help him establish in life, Petitioner formed a Company in India, under the name and style of CompuAction Financial Services India Private Limited; obtained the Membership of the National Stock Exchange in the name of the Company and *nominated the Respondent as the full time Director of the Company*. He, as the Director in the Company, was managing the entire affairs, on his own. For the services rendered to the Company, he was entitled to draw monthly remuneration.

6. The Petitioner, being a citizen of USA, was a Director of the Company but was represented through his proxy. He seldom visited India and had given a free hand to the Complainant, to run the Indian business and had left all his Indian business, properties, bank accounts, operation, petty cheque payments etc., in the care of the Respondent/Complainant.

7. Although, the Petitioner had good intentions to help the Respondent to establish himself in his life by setting up a Company for him, the Complainant possibly thought that he could do better in life without the experience, financial backing and the protective shield of the Petitioner, the maternal uncle.

8. The Respondent took unlawful advantage of the complete faith and trust that was placed in him by the Petitioner. He started mismanaging the business of the Company by manipulating the Book of Accounts, opening fake Account of Customers, wrongly advising the Company's customers, mis-utilizing and mis-appropriating the funds of the customers as well as of the Company and causing financial losses to the Company. In the year 1985,



the net worth of the Company was Rs.2 Crores, which came to down to Rs.56 lakhs in the year 2014. As on 31.03.2014, the Company had lost almost 75% of its net worth, customer base and business, due to the fraudulent acts and misdeeds of the Complainant.

9. On or about August, 2014 when the Petitioner visited India and reviewed the business of the Company and posed some tough questions to the Respondent on the reasons for dwindling fortunes of the Company, the Complainant instead of answering the queries, manhandled the Petitioner and left the Company by threatening to teach everyone a lesson.

10. Eventually, in the Annual General Meeting of the Company on 22.09.2014, the Complainant, along with group of men, came to the registered office of the Company and caught hold of the Petitioner by his collar and threatened him with dire consequences. The Petitioner left for USA in the night of 23/24.09.2014.

11. Thereafter, the Company passed Resolution dated 15.01.2015 whereby the Respondent was removed from the Directorship of the Company. The Complainant who was having the personal cheque book of the Petitioner, thus filled in the aforesaid three cheques with the dates, 25.09.2014, 26.12.2014 and 20.04.2015 in the sum of Rs. 20 lakhs, Rs.35 lakhs and Rs.40 lakhs respectively.

12. The Petitioner has further explained that in the year 2013, RBI had ordered the cancellation of old MICR Cheque Books, to be replaced with new Cheque Books. These old cheques have been utilized by the Complainant, to draw the aforesaid three cheques from his old MICR Cheque Book of year 2004-05, which had been left by the Petitioner with



the Complainant, trusting him as he was the nephew. The cheques on presentation, were dishonoured.

13. The Petitioner further asserted that the HDFC Account was being handled by the Respondent/Complainant and was fully aware that there was hardly any balance in the said Account. The three cheques with a malicious intent, *have been forged in order to* implicate the Petitioner, in these false cases.

14. The Respondent had alleged in his Complaint that he was entitled to 10% of gross brokerage as commission, besides the monthly remuneration. The Complainant alleged that these Cheques were issued by the Petitioner for the payment of the Director's remuneration, in the form of commission allegedly due to the Complainant on brokerage and other income, earned by the Company.

15. The Petitioner filed the copy of ***Profit & Loss Account and Balance Sheets*** of the Company before the learned M.M., to reflect the Profit and Losses. The Petitioner explained that the ***financial Statements*** of the Company shows that the Complainant had been paid Director's Remuneration of Rs.2,08,800/- during the Financial Year 2011-12 to 2013-14; the Director's Remuneration of Rs.34,320.30/- during 2004-05 and Rs.23,332.50/- during the Financial Year 2005-06 and Remuneration of Rs.1,76,800/- in Financial Year 2008-09 and Rs.1,72,800/- during the Financial Year 2009-10. *All the Balance Sheets* had been prepared under the supervision of the Complainant, being the Resident Director and Whole Time working Director of the Company. All the Balance Sheets had been signed by the Respondent/Complainant.



16. Based on these figures of brokerage and profits, it is clear that the three Cheques aggregating to Rs.95,00,000/- which the Complainant claimed to have been issued as 10% Commission on brokerage due to him, is clearly fabricated and forged. Even as per the records of the Company which has earned gross brokerage of Rs.1,86,29,153.22/- during the last 10 years. The Cheque amounts do not add up to 10% commission, as claimed in the Complaint, reflecting that no such amount was due and payable by the Petitioner to the Respondent.

17. Moreover, under *Section 209 of the Companies Act*, the Company is required to record all transactions relating to income and expenditure incurred during the year, in its Books of Accounts. The payment of remuneration to the Complainant by the Company, was an item of expense which has been duly recorded in the Books of Accounts. In none of the Profit & Loss Accounts or Balance Sheets, is there any entry regarding either the payment of any commission to the Complainant or any commission having accrued or payable to the Complainant, from the Company. *The Accounts of the Company have been audited by an independent Auditor*, to certify that they present a thorough and fair affairs of the Company.

18. The Complainant has been at the helm of the affairs of the Company, for the last 15 years and has been signing all the staff Payroll and business cheques, including his monthly salary cheque. There is no explanation as to why would he waited for 19 years, for signing the cheque towards his alleged commission. The Complainant had completely forgotten to record his remuneration by way of alleged commission from the Company, in the Book of Accounts. He also did not remember to instruct the Accountants of



the Company or the Auditors, to record his due commission in the Books of Accounts of the Company. The Company's records available for the last 7 years do not borne out that the Complainant was entitled to any commission on the brokerage and commission from the Company.

19. Strangely, it was only on the termination of his relationship with the Company, that he remembered of his commission. Further, he had to turn to the Petitioner to sign the personal cheques for himself, towards his commission allegedly due from the Company. As it is the admitted case of the Complainant, that the debt was due from the Company and not from the Petitioner.

20. The falsity of the Complaint is also evident as the impugned cheques have been issued from the personal account of the Petitioner, for the payment of Director's Remuneration in the form of Commission to the Complainant, even though the Petitioner had no personal liability for the alleged dues of the Company.

21. The Petitioner has further stated that the Complainant had prevented the Petitioner from conducting the meeting at the Office on 22.09.2014 and had posed stiff resistance and adopted muscle power at the General Meeting of the Company and yet, it is the make-believe case of the Respondent that the Petitioner amicably issued the three cheques aggregating to Rs.95,00,000/-. Allegedly, the three cheques are dated from 25.09.2014 onwards, while the Petitioner had left for USA in the night of 23/24.09.2014.

22. Moreover, the Notice issued under Section 138 NI Act on behalf of the Complainant, does not cite any decision or Resolution passed by the Company, entitling him to 10% brokerage or commission on transactions of



the Company, aside from monthly remuneration, as per the alleged Settlement between the Complainant and the Petitioner. There is no proof of alleged Settlement with the Petitioner, produced by the Complainant.

23. It further deserves to be emphasized that in the last 19 years, *no Commission or the brokerage by the Company*, was ever paid by the Company to the Complainant. There is no document produced by the Complainant to show that he was ever titled to any brokerage or the Commission from the Company.

24. The Petitioner further claimed that he never received any Notice for Dishonour of the Cheque No.616104 dated 10.07.2015 for Rs.35 lakhs, from the Complainant.

25. The Petitioner has asserted that learned M.M had passed Summoning Order dated 09.12.2015 in a mechanical manner, without examining whether the Complaint discloses the offence under Section 138 NI Act, though the Petitioner has appeared and obtained the Bail from the Court.

26. Thereafter, the Petitioner moved an Application under *Section 251 read with Section 245 Cr.P.C for discharge*, but the same was dismissed *vide* Order dated 05.05.2017 arbitrarily, without considering the judgments of the Supreme Court and this Court. The learned M.M erroneously observed that Section 251 of the Code, did not contemplate any indulgence at the stage of framing of Notice or that the Accused was not without remedy and he could approach this Court under Section 482 Cr.P.C, by placing reliance on Subramaniam Sethuraman vs. State of Maharashtra and Anr., AIR 2004 C 4711.

27. It was, therefore, submitted that the Complaint under Section 138 NI Act is liable to be quashed.



28. The *main grounds agitated* are that the averments made in the Complaint and the material placed on record, do not disclose the do not satisfy the ingredients under Section 138-142 NI Act and commission of offence. Therefore, the Summoning Order dated 09.12.2015 is liable to be set aside.

29. Furthermore, it is nowhere asserted in the Complaint that the cheques had been issued in discharge of lawful debt due to the Complainant. The claim of the Director of the Company is only against the Company and not against the Directors as they are not personally liable for the debts of the Company. Moreover, the presumption under Section 139 NI Act, does not arise against the Petitioner as he did not owe any debt to the Complainant.

30. Furthermore, the Petitioner is a Non Resident Indian, while the Complainant was a whole Director of the Company. If the amount as alleged was actually due to him, he would have withdrawn the same from the Company at any time and not after he was terminated from the Directorship of the Company. These facts throw much light on the lack of *bona fide* of the Complainant.

31. Reliance is placed on Adalat Prasad vs. Roop Lal Jindal, (2004) 7 SCC 338; Bhushan Kumar vs. State of NCT of Delhi & Ors., (2012) 5 SCC 424 and S.K. Bhalla vs. State & Ors., 2011 (180) DLT 219. Moreover, Section 245(2) Cr.P.C provides that Accused may be discharged at any previous stage by the Magistrate if the grounds of charge are found to be groundless. Reliance is placed on Cricket Association of Bengal vs. State of West Bengal, (1971) 3 SCC 239. Sub-Section (2) of Section 245 empowers the Magistrate to discharge the Accused any previous stage.



32. It is further contended that *the cheques were not for discharge of any debt or liability to attract Section 138*. Reliance is placed on Indus Airways Private Limited vs. Magnum Aviation Private Limited (2014) 2 (12) SCC 539 and Gajendra Nagpal vs. Jagdeep Bhatia & Ors. 2016 SCC OnLine Del 1994 (2016) 229 DLT (CNA) 14.

33. Furthermore, the Petitioner had noticed withdrawals from his personal account, even though he had not signed any cheques for the said amounts, although no major amounts had been withdrawn. It appears that the Respondent had been forging his signatures on the cheques, the chances of the Respondent forging the signatures on the aforesaid cheques, cannot be overruled.

34. The present Petition is an *abuse of process of law*. In the hindsight, it appears that the Complainant had been planning for his fraudulent action for some time and the Complainant is in continuation of such actions.

35. It is, therefore, submitted that the Complaint and all the subsequent Orders therein are liable to be quashed.

36. The **Respondent No.2/Complainant filed his Reply** to the Petition, wherein it was asserted that the Petition has been filed to involve the Respondent in false and frivolous legal proceedings, so as to compel him to forgo his claim and not to pursue the legal cases filed by him, in the Court of learned M.M.

37. After the framing of Notice, Application under Section 145 NI Act had been conceded by the Petitioner and the matter is fixed for cross-examination of the Respondent. The Petitioner intends to compel this Court to accept the defence of the Petitioner, without going through the scrutiny of the Trial Court by way of evidence.



38. There is a presumption of debt and the cheque in question, was given in discharge of the debt. At the time of framing of Notice, the defence of the petition is not required to be looked into. The Complainant had successfully proved *prima facie* case, for which the Petitioner has been summoned and the Revision Petition filed against the Order of Summoning, had been disposed of.

39. The Application filed by the Petitioner for recall of Order of Summoning has also been dismissed by the Trial Court. Three Writ Petitions were filed for challenging the Summoning Order. However, *the Writ Petition pertaining to cheque dated 25.09.2014 for the sum of Rs.20 lacs, was withdrawn* on 13.02.2018 while the aforesaid two Writ Petitions are in respect of cheque bearing No. 616104 dated 26.12.2014 for the sum of Rs.35 lacs and the cheque bearing No.616105 dated 20.04.2025 for the sum of Rs.40 lacs.

40. There is no legal or fundamental right of the Petitioner involved in the present proceedings, nor is there any irregularity or illegality in the Orders of the Court.

41. *A similar Petition filed by the Petitioner was dismissed as withdrawn as it was not maintainable.* The present Petition is similar in nature and contains similar points of facts and law, which has already been disposed of by this Court.

42. **On merits,** it is asserted that the Petitioner was a frequent visitor to India and had been running his business and owned various properties, in India. The Complainant had joined the business of *Iron Wires* owned by his father, who died on 16.10.1984. The Complainant is continuing that



business and is also running his business in the name and style of M/s Sethi Steel Industry.

43. The Company was incorporated by the Petitioner, in 1995 and appreciating the knowledge, hard work and sincerity of the Respondent, he was made the Director in the Company. Various communications made by the Petitioner are witness to his appreciation of the hard work.

44. It is claimed that the overall business of the Company was managed by the Petitioner who had complete control over the business. He had been frequently visiting India and all the paperwork including Books of Account, Balance Sheets and other records, were being prepared by the staff on the instructions of the Petitioner. All details with regard to the transactions made by the clients, were forwarded to the Petitioner.

45. It is denied that the Petitioner used to rely upon the Respondent for his business or properties or Bank Accounts operations or any cheque payments. It is denied that he took unlawful advantage of any faith or trust of the Petitioner.

46. It is claimed that the Company was 100% owned by the Petitioner and was being personally managed by him, which is confirmed in communication dated 22.09.2014, sent to the customers. It is denied that he had any reason to misuse the trust. He also denied that freehand autonomy or independence that was available to the Complainant, was ever used to mismanage the affairs of the Company or to manipulate the Books of Account or to open fake Accounts or give wrong advice to the customers. The Petitioner himself was improperly withdrawing the amounts by reflecting fake and false expenses.



47. The record of the business had not been properly maintained and the business was shown for *mala fide* and illegal nuisance.

48. The Petitioner since 1995, has put hard work and performed his duties with utmost care and dedication, which has resulted in the expansion of the business and the enhancement of profits earned by the Company. It is improper to insult the Complainant by asserting that he had not sense of right and wrong in the life.

49. The Complainant states that through Letter dated 01.08.1997, the Petitioner had offered to pay 10% of gross brokerage and 50% of other financial income. According to the averments made in the Complaint, when the Petitioner came to India in May, 2014, he found that the brokerage/commission amount due to the Complainant/Anil Sethi, was very heavy. In August, 2014, the Petitioner had no reason or occasion to review the business of the Company or to pose tough questions to the Complainant. It is only when the Respondent asked him to pay the said amount, the Petitioner turned dishonest and called a meeting of Directors on 22.09.2014, *vide* Notice dated 01.09.2014.

50. The Complainant claimed that the Accused adopted adamant and callous attitude, towards the Complainant. When he reached for the Meeting on 22.09.2014, he had to call the Police because of the misbehaviour of the Petitioner/Accused. He denied that he ever extended any threats. It was claimed that it was the Petitioner who on his visit to the office of the Company and manhandled the Complainant.

51. The Complainant was given an assurance that they would talk later and settled the account of commission and other income. Before leaving India, The parties met in the evening and the account was settled in respect



of amount of commission/brokerage and other income of the Company. Three cheques dated 25.09.2014, 26.12.2014 and 20.04.2015 for the sum of Rs.20 lacs, Rs.35 lacs and Rs.40 lacs, respectively, were drawn in favour of the Complainant, for the payment of the amount of commission of the Complainant on brokerage and other income of the Company, along with communication dated 22.09.2014.

52. It is claimed that there was no occasion for the Petitioner to have removed the Respondent from the Directorship of the Company.

53. It is denied that the cheques were ever left in the custody of the Complainant and also denied that the cheques were ever stolen by him. The business of the Company was completely controlled by the Petitioner and Respondent had no concern with the same. He denied having ever forged any cheques of the Petitioner or intended to implicate him in criminal cases.

54. The Order of Reserve Bank of India is denied for want of knowledge. All other averments made in the Complaint have been denied. It is submitted that there is no merit in the Petition and that the Petition is liable to be dismissed.

55. **Witten submissions have been filed on behalf of the Petitioner**, on similar lines as the averments contained in the Petition.

56. Learned Counsel for the petitioner aside from re-agitating the assertions contained in the Petition, contented that the Petitioner was residing outside the jurisdiction of the Court, but there was no compliance of Section 202 Cr.P.C.

57. There is no quantified amount of alleged 10% brokerage. Moreover, no documents have been filed to support this alleged debt. On the other hand, the Balance Sheets disprove the claim of the Complainant.



58. Moreover, the cheques were personal to the Petitioner and there was no personal contact between the Petitioner and the Complainant. The alleged debts, if any, were due from the Company and not from the Petitioner.

59. The Legal Notice had been duly served upon the Petitioner to which a Reply had been given. The Complainant was finally removed from the Directorship in January, 2015 after which the cheques have been manipulated.

60. **Learned Counsel for the Respondent on the other hand**, refuted the arguments of the Petitioner. It was submitted that the Complainant was inducted as a Director on 01.08.1997 and his remuneration was fixed as 10% brokerage and 50% of the earnings of the Company.

61. The Revision Petition that was filed by the Petitioner to challenge the Complaint and the Summoning Order, was decided on 19.09.2025. There were various documents filed along with the Revision Petition. The Covering letter dated 22.09.2014 given by the Petitioner to the Complainant, reflects admission of the outstanding liability of the Petitioner.

62. The cheques have been issued towards the legally enforceable debt and liability i.e. the amounts due to the Complainant as his remuneration to be a Director in the Company. Moreover, the Petitioner had stood as a Guarantor and, therefore, is liable for the payments for the cheque amounts. The Petition is, therefore, liable to be dismissed.

Submissions heard and record perused.

63. It is not disputed that the Petitioner/Accused/maternal uncle of Complainant/Respondent No.2 Anil Sethi, is a resident of USA, for the last 14 years. The Petitioner had set up a Company in the name and style of



CompuAction Financial Services India Private Limited and had obtained the membership of National Stock Exchange.

64. The Petitioner explained that though he was the Director, he was represented through his proxy. The Respondent had been nominated as the Director of the Company and was having a free time to run the Indian business and had a full control over the properties, Bank Accounts operations, petty cheque payments, etc., pertaining to the business of the Company.

65. *The first challenge to the two Complaints is that **there was no legally enforceable debt** and the Cheques in question, had been manipulated by the Complainant.*

66. The Complainant himself had stated in his Complaint that when the Accused/Petitioner came to India in May, 2014, he was not happy with the heavy amounts due towards commission/brokerage and had even called a Board Meeting on 22.09.2014 *vide* Notice dated 01.09.2014. However, the Meeting was disrupted and the Board Meeting could not take place.

67. In this context, it is pertinent to refer to the Notice dated 24.12.2014 issued for and on behalf of CompuAction Financial Services India Private Limited to the Complainant Anil Sethi informing him that the Notice dated 11.08.2014 was received from the shareholders of the Company, for his removal from the office of Director.

68. From these facts, it emerges that differences arose since May, 2014 between the Complainant and the Accused, in regard to the mismanagement of the Company to the extent that a Letter had been written by the Petitioner to the Company, about loss of faith in the Complainant and his removal; so much so that the Board Meeting scheduled for 22.09.2014, was disrupted



and could not be held, though eventually, the General Body Meeting was scheduled for 15.01.2015. *Thereafter, the Board Meeting was held on 15.01.2015 and the Board Resolution was passed to remove the Complainant from the position of the Director.*

69. It is in this backdrop, that the case of the Complainant needs to be considered. The Complainant has claimed that after the disruption of the Board Meeting on 22.09.2014, he and the Petitioner met in the evening and all the disputes were resolved and the three impugned Cheques for a total sum of Rs.95 lacs, had been given towards his commission/brokerage. The Complainant, therefore, alleges that these three cheques were towards the legally enforceable liability of the commission and the brokerage, that was payable to him.

70. The *first question* which arises is what is the basis for claiming the amounts towards the commission/brokerage. Section 196(4) of the Companies Act reads as under:-

*“(4) Subject to the provisions of Section 197 and Schedule V, a managing director, whole-time director or manager shall be appointed and **the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors** at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions [specified in Part I of that Schedule]:*

*Provided that a notice convening Board or general meeting for considering **such appointment shall include the terms***



and conditions of such appointment, remuneration payable and such other matters including interest, of a director or directors in such appointments, if any:

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.”

71. In a Company, the regulation and the payments to be made to the Directors, are subject to a valid Board Resolution. *The Complainant had not placed on record any Board Resolution, which is mandatory requirement under Section 196, to show that he was entitled to 10% of gross commission/brokerage on the transactions and other income of the Company, aside from monthly remuneration.*

72. Interestingly, the Petitioner has consistently questioned the entitlement of the Complainant to such amounts, as claimed by him. The Complainant had not placed any document or letter or any Board Resolution, along with the Complaint or initially in this Writ Petition. Subsequently, by way of additional documents, he filed a Letter dated 01.08.1997 issued on the Letter Head of the Company, stating as under:-

Aug 1, 1997

“Dear,

Anil Sethi

I am pleased to convey the satisfaction of the company about your performance since you have been included in the board of the directors of the company and made responsible to manage all the affairs of the company under the supervision of Subhash C. Sahni.

It has been resolved that you shall be entitled to 10% of the gross brokerage and 50% of the other income and financing income to the company in addition to



the fixed remuneration of the directors in a financial year.

Please send a signed copy of this letter confirming the acceptance of these terms and conditions for the records of the company.

Signed

-----."

73. The bare perusal of this Letter shows that it does not refer to any Board Resolution, but bears the individual signature of the Petitioner. It states that the Complainant would be entitled to 10% of gross brokerage and 50% of the other income and financial income to the Company, in addition to fixed remuneration as a Director in the financial year.

74. The perusal of this Letter shows that it does not have any stamp of the Company, below the signatures of the Petitioner. Also, it does not refer to any Board Resolution. Furthermore, bare perusal of this Letter shows that *this was one blank Letter Head signed by the Petitioner and given to the Complainant on account of his being a resident of USA*, which has been manipulated and prepared into this Letter, stating the remuneration payable to the Director.

75. Here, it may also be relevant to note that the Petitioner may have had the overall control, but was not a named Director and he had no personal authority, to fix the Brokerage of the Complainant, on behalf of the Company. This letter on the face of it, is of little significance, to establish the alleged entitlement.

76. Another significant fact is that this Letter did not find mention anywhere at earlier point of time, till it got filed along with the Application for placing on record Additional Documents on 15.12.2025, in these Writs.



77. Even otherwise, such Letter is not tenable, in view of Section 196 Companies Act; the petitioner could not have agreed to bind the Company to pay any Commission/Brokerage as an individual; a Board Resolution was mandatorily required, which admittedly does not exist.

78. In this context, it is also pertinent to mention that according to the Complainant after the disputes which arose on 22.09.2014, the petitioner met the Complainant in the evening, and handed over the three cheques **vide Letter dated 22.09.2014**, copy of which has also been filed on 15.12.2025. Pertinently, the Letter dated 22.09.2014 is also interestingly worded, which states as under:-

Sep 22,2014

Dear,
Anil Sethi

I can understand your insecurity on the account of the events which happened today in the office.

Due to personal reasons which I cannot convey to you, our business association for future is not possible. I appreciate all what you had done for the company and personally for I me and my family.

No amount of money is sufficient to discharge the debt or what I and my company's owe to you.

Since, our turnover has reached to good heights due to your contribution to the company and since I have come to India for a short stay, and I understand that amount payable to you shall not be less than 1 crore.

However, since our company is being under the process of change over, I would be grateful if you accept these three cheques of HDFC bank



maintained by me towards the settled amount. I assure you that if anything else is left then I will be carrying the liability to pay without any delay.

Signed

79. Needless to state that this Letter, as the earlier letter of 1997, did not find any mention since the filing of the Complaint in 2015, till 2025. Interestingly, from the bare perusal of this Letter dated 22.09.2014, it is evidently created again, on a blank paper having signatures of the Petitioner, which has been subsequently manipulated.

80. This stands confirmed as both the Letters dated 01.08.1997 and 22.09.2014 are prepared on a same computer, with the same font and the same font size, reflecting that they have been prepared on blank papers bearing the signatures of the Petitioner at the same time, *though the dates are about seventeen years apart*. These two Letters do not find mention in the Complaint, or till 2025.

81. In this context, it may be noted that the entire management of the Company was with the Complainant, who had the access to the cheque books, documents, letters, etc., and as asserted by the Petitioner, it is evident that the blank cheques that were in his power and possession, have been manipulated by him.

82. Considering the manner and the content, they are evidently subsequently prepared documents and do not inspire any confidence.

83. It is not a private enterprise or a proprietorship concern, where the things could have been decided unilaterally. It is a private limited Company which is governed by the provisions of the Companies Act and every



decision taken and the amounts paid towards the remuneration of the Directors, is necessarily required to be documented by a Board Resolution.

84. In the normal course of events, when there is a dispute *inter se* the parties and when as per the Complainant himself, there were huge amounts due on account of commission/brokerage, it is highly unlikely that the Petitioner would acknowledge the great heights to which the Company has been taken due to the efforts of the Complainant is unlikely. Also, what the Letter states is that *“I understand that amount payable to you shall not be less than Rs.1 crore.”*

85. Herein also, there is no reference to any Statement of Accounts. This Letter on the face of it, is against the prudence of a reasonable man. If differences got settled and sorted out and Parties had a Settlement on 22.09.2014, there would not have been any subsequent Board Meeting and removal of the Complainant from the Company, *vide* Resolution dated 15.01.2015. In this background of there being a persistent dispute, it is absolutely incomprehensible that the Petitioner would have given the three Cheques.

86. The Complaint is conspicuously silent about there being any entries ever made in the Balance Sheets in regard to the commission/remuneration paid to him. The Balance sheets and the statement of accounts are required to be audited, but there is nothing placed on record by the Complainant to corroborate his entitlement to the commission and the brokerage, as alleged by him. The audited Accounts filed by the petitioner, do not calculate to the commission/brokerage claimed by the Complainant. Even if the duly audited Accounts filed by the Petitioner, are ignored, then too, the Complainant has



not disclosed any calculation by which this amount has become payable to him.

87. As has been rightly contended by the Petitioner, the Complainant had every opportunity in the last 19 years, to have credited the Company Account towards his Brokerage/commission and he did not need to wait till the emergence of dispute, to assert his alleged dues.

88. The Complaint is absolutely vague and silent about the period over which such brokerage/commission, has become due and payable.

89. It is, therefore, concluded that *there is no Board Resolution* by virtue of which the entitlement of the Complainant to the commission/brokerage, has been fixed. This Company had been existing since 1997 and the complete control and management was with the Complainant.

90. *The Complainant has failed to explain how and when the brokerage amounts have become due and payable to him.* There are no document and no other material on record to show the manner in which Rs.95 lacs, are alleged to be due to the Complainant towards his commission/brokerage.

91. The primary onus was on the Complainant, to have stated the relevant data to show that *the alleged cheques were issued towards the legally enforceable debt, and that the alleged debt has arisen in the last three years of presentation of the cheque.*

92. The Complaint under Section 138 NI Act is maintainable, if the cheque is issued towards a *legally enforceable debt*. Here is a case where neither the Complainant has been able to explain that there **indeed existed a debt** or that the amount claimed, **was legally enforceable**.

93. In this regard, it is also significant to note that the liability claimed by the Complainant, was for the dues payable by the Company. Even if there



was a liability, it was against the Company which had to be discharged, from the Account of the Company. The Petitioner was in no way responsible or liable to satisfy the debts of a Company. ***It is thus, not shown that the Petitioner had any liability towards which the alleged cheques, could have been appropriated.***

94. With the basic particulars missing, the Complainant cannot rely on Section 139 NI Act, to assert that there is a presumption about there being a legally enforceable debt, in respect of the dishonoured cheques. The presumption would arise if there are fundamental basic facts pleaded to show how there was an existence of legally enforceable debt.

95. ***In this case, aside from bald assertions, the Complaint is completely bereft of the requisite facts to explain the debt or it being legally enforceable. It*** is also a blatant abuse of process of law, wherein the Complainant has gone to the extent of preparing manipulated Letters. It is a fit case for quashing of the Complaint and the Summoning Order and the proceedings emanating therefrom.

96. The Complaint under Section 138 NI Act is hereby, quashed and the Petitions are **allowed**.

97. The Petitions along with pending Applications are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 10, 2026

VA/N