2025 INSC 1133

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. OF 2025
(@SPECIAL LEAVE PETITION (CRL.) NOS. 11184-11185/2024)

KAVERI PLASTICS **...Appellant(s)**

VERSUS

MAHDOOM BAWA BAHRUDEEN NOORUL **...Respondent(s)**

J U D G M E N T

N.V. ANJARIA, J.

Leave granted.

2. When the amount mentioned and demanded in the notice sent under Proviso (b) to Section 138 of the Negotiable Instruments Act, 1881, to the payee or the holder in due course of the cheque, is different from the amount for which the cheque was issued, whether the notice would stand valid in eye of law; whether a defence that such was a typographical error could be a ground which could be countenanced in law - are the questions falling for consideration in the present appeals.

2.1. The appeals arise out of the judgment and order dated 26.02.2024 in Crl. M.C. No.2164 of 2022 and Crl. M.A. No.9155 of 2022 passed by the High Court of Delhi whereby the High Court quashed the Criminal Complaint No.523804 of 2016 filed by the respondent herein under Sections 138, 141 and 142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act'), on the ground that amount mentioned in the notice was not the same as per the cheque, which rendered the notice invalid.

3. Stated in brief, the facts in the background are *inter alia* that a complaint came to be filed by the appellant herein against the respondent-arraigned as accuse No.3, alleging that accused No.1-M/s. Nafto Gaz India Private Limited entered into Memorandum of Understanding with the appellant-complainant on 30.04.2012 relating to sale of land. A cheque bearing number 876229 dated 12.05.2012 drawn on the Indian Overseas Bank, R.K. Puram, Delhi for Rs.1,00,00,000/- was issued by the accused No.1 in favour of the appellant, which returned dishonoured on the ground 'funds insufficient'.

3.1 The appellant issued demand notice dated 08.06.2012. The relevant part of said notice is extracted hereunder.

"4. That in pursuance of the MoU, in terms of part liability towards my clients, you the noticees issued the following cheque:

CHEQUE NO.	DATE	BANK & BRANCH	AMOUNT
876229	30.04.2012	Indian Overseas Bank, B/o R.K. Puram	1 Crore 1,00,00,000/-

I, hereby call upon you to make the payments of the aforesaid cheques of 2,00,00,000/- (Rupees Two Crores) within the stipulated period of 15 days from the date of receipt of this legal notice failing which I have definite instructions from my client to initiate legal proceedings, against you which please note shall solely be at your risk and cost. Copy kept."

3.2 Another notice dated 14.09.2012 was issued to accused No.1- M/s. Nafto Gaz India Private Limited and its Directors through the advocates. Relevant portion thereof is extracted hereinbelow:

'Sub.: Legal Notice'

Under instructions and on behalf of my client Sh. Deepak Gupta, S/o Sh. Rameshwar Dass, R/o 3862, Gali No.1, Pahari Dheeraj, Sadar Bazar, Delhi - 110006 and on the basis of the documents provided, I serve upon you the following legal notice;

1. That my client is a law abiding citizen residing at the abovementioned address for the past many years.

2. That you the noticee no.1 is a company registered under the Indian Companies Act, 1956 having its office at the abovementioned address while the noticees no. 2-5 are Directors of the noticee no. 1 Company and are responsible for day to day working of the noticee no. 1 company and the noticee no. 6 is the authorised signatory of the noticee no.1 company and noticees No.2-6 are responsible for day to day activities of the noticee no.-1 company.

3. That you the notice no.1 entered into a Memorandum of Understanding with my client on 30.04.2012 pertaining sale of land bearing Khasra No. 75, Khewat No. 61, Khata No. 112 and Khatoni No. 61/14, Village — Humayunpur situated in Abadi of Arjun Nagar, New Delhi and also agreed to take on lease the property till the final sale deed is executed and issued certain cheques towards your liability for rent of leased property.

4. That in pursuance of the MoU, in terms of part liability towards my clients, you the notices issued the following cheque:

CHEQUE NO.	DATE	BANK & BRANCH	AMOUNT
876229	30.04.2012	Indian Overseas Bank, B/o R.K. Puram	1 Crore 1,00,00,000/-

5. That you the noticees assured my client that the aforesaid cheque shall be honoured on presentation.

6. That believing you assurance, my client presented the aforesaid cheque to his banker, but was astonished to see the fate of the cheque as the same returned dishonoured vide memos dated 29.08.2012 for reason "FUNDS INSUFFICIENT".

7. That you have defrauded my client by issuing cheque from account maintained by you towards discharge of your legal liability towards my client and then not ensuring that the same is dishonoured thereafter, attracting penal action u/s 138 of the Negotiable Instruments Act, 1881 and also under Section 420 of the Indian Penal Code.

I, hereby call upon you to make the payments of the aforesaid cheque of ₹2,00,00,000/- (Rupees Two Crores) within the stipulated period of 15 days from the date of receipt of this legal notice failing which I have definite instructions from my client to initiate legal proceedings, against you which please note shall solely be at your risk and cost. Copy kept."

3.3 The fact situation is that the cheque in question was issued for Rs.1,00,00,000/- whereas in both the aforesaid notices sent to the accused – the drawer of the

cheque upon bouncing of the cheque, the complainant asked for the payment of Rs.2,00,00,000/-. At that stage, the respondent accused filed an application seeking discharge contending that the notice of demand as aforementioned was not in terms of Proviso (b) to Section 138 of the NI Act, therefore, the complaint was not maintainable. The plea for discharge was dismissed by the Metropolitan Magistrate on 06.10.2021. The respondent herein then filed a petition before the High Court, culminating into the impugned judgment and order whereby the High Court held that as the demand notice under Proviso (b) of Section 138 of the NI Act was at variance with the cheque amount, the same was invalid rendering the complaint liable to be quashed.

3.4 In the reply filed by the appellant to the discharge application the following defence was raised as found in paragraph 2.

> "That the notice dated 08.05,2012 is perfect and if contents of the entire notice be read as whole the said demands, the "aforesaid cheque" and the aforesaid cheque has been clearly described in para 4 of the notice, however, due to typographical inadvertent mistake Rs.2,00,00,000/- has been mention after the word "aforesaid cheque". It is very relevant to mention herein that complainant has also issued other notices to the accused on the same day which consist the cheque for Rs.2,00,00,000/- and due to

> cut paste command inadvertently amount of Rs. 2,00,00,000/- could not change in the notice issued in the present case. It is very relevant to mention herein that contents of entire notice clearly speaks real facts and all the contents of the notice must be read in totality."

4. Learned Advocate for the appellant, Mr. Sanjay Kumar assailing the judgment of the High Court, contended that a too technical ground weighed with the High Court in quashing the complaint, as it viewed that since amount mentioned in the notice was Rs.2,00,00,000/-while the cheque issued was for Rs.1,00,00,000/-, the notice was invalid. It was sought to be submitted that there was a clear typographical error on the part of the complainant in mentioning in the notice the different amount. It was next submitted that other details of cheque were mentioned in the notice and that the court ought to have looked at the substance of the matter rather than becoming technical.

4.1 It was then submitted that the offence under Section 138 of the NI Act is essentially a civil wrong in the attire of criminal offence. In that view, it was submitted, the technicality should not be allowed to prevail. It was further submitted that purpose of Section 138 of the NI Act is to facilitate smooth business transactions. Learned counsel for the appellant submitted that the kind of view taken by the High Court, if allowed to be sustained, it

would give a premium to the drawer of the cheque whose cheque is dishonoured and has remained unpaid.

4.2 It was submitted by relying on the decision of this Court in **Suman Sethi vs. Ajay K. Churiwal & Anr.**[1] that the notice was required to be read as a whole. By pressing into service another decision also of this Court in **Central Bank of India & Anr. vs. Saxons Farms & Ors.**[2] it was highlighted that the object of the notice under the Proviso (b) of Section 138 of the NI Act, was to give a chance to the drawer of the cheque to rectify his omission and also to protect an honest drawer.

4.3 On the other hand, learned advocate for the respondent Mr. Kush Chaturvedi submitted that in the notice under Proviso (b) of Section 138 of the NI Act issued by the respondent, he gave incorrect details demanding double the cheque amount. Learned advocate for the respondent highlighted that Rs.2,00,00,000/- was demanded in both the notices issued on 08.06.2012 and next on 14.09.2012. It was submitted with reference to the decisions of this Court as well as that of different High Courts that the issue is no longer *res integra* that the demand in legal notice cannot be different than the cheque amount. He submitted that the complainant took a false and a stock plea of typographical error in the notice.

[1] (2000) 2 SCC 380
[2] (1999) 8 SCC 221

5. Having gathered the compass of the controversy and considered the rival submissions, the provision of Section 138 of the NI Act may be noticed at the outset. This Section deals with the dishonour of the cheque. It reads as under,

> "**138. Dishonour of cheque for insufficiency, etc., of funds in the account.**—Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the cheque, or with both:
>
> Provided that nothing contained in this section shall apply unless—
>
> (a) the cheque has been presented to the bank within a period of six months from the date on

> which it is drawn or within the period of its validity, whichever is earlier;
>
> (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and
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> (c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or as the case may be, to the holder in due course of the cheque within fifteen days of the receipt of the said notice.
>
> *Explanation*.—For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability."

5.1 The aforesaid provision contemplates that where any cheque drawn by a person in the account maintained by him is returned dishonoured and unpaid, it amounts to a punishable offence. The ingredients of this penal provision are *inter alia* that the cheque should have been drawn by a person on an account maintained by him with a banker, for payment of any amount of money to another person from out of that account. Such cheque should be returned by the bank for the reason of money in the credit of the account being insufficient, *etc*. In order

to make out the offence under Section 138 of the NI Act complete, conditions stated in sub-clauses (a),(b) and (c) of the Proviso should stand complied with. In the present case, it is the condition (b) to the Proviso which is in focus.

5.1.1 In **K.R. Indira vs. Dr. G. Adinarayana**[3], this Court enlisted the components, aspects and the acts, the concatenation of which would make the offence under Section 138 of the Act complete, to be these (i) drawing of the cheque by a person on an account maintained by him with a banker, for payment to another person from out of that account for discharge in whole/in part of any debt or liability, (ii) presentation of the cheque by the payee or the holder in due course to the bank, (iii) returning the cheque unpaid by the drawee bank for want of sufficient funds to the credit of the drawer or any arrangement with the banker to pay the sum covered by the cheque, (iv) giving notice in writing to the drawer of the cheque within 15 days of the receipt of information by the payee from the bank regarding the return of the cheque as unpaid demanding payment of the cheque amount, and (v) failure of the drawer to make payment to the payee or the holder in due course of the cheque, of the amount covered by the cheque within 15 days of the receipt of the notice.

[3] (2003) 8 SCC 300

5.2 The purport of group of words 'makes a demand for the payment of said amount of money' occurring in Proviso (b) to Section 138 of the Act, and in particular the connotation 'the said amount of money' therein, hold key to the answer to the issue posed. The words 'said amount of money' figure in Proviso (b), Section 138. The effect and application of this phrase was dealt with by this Court in **Suman Sethi vs. Ajay K. Churiwal & Anr.**[4] The context of facts was that the appellant in that case issued a cheque of Rs.20,00,000/- which was returned dishonoured. In the notice issued under the Proviso (b), the complainant called upon the drawer of the cheque to pay cheque amount of Rs.20,00,000/- along with incidental charges of Rs.1500/- spent on the cheque and also Rs.340/- as notice charges. It was stated that failing to pay would entail legal steps holding the drawer liable for all costs and consequences thereof. The contention was that since the incidental amount was demanded in the notice along with the cheque amount, the notice was rendered bad.

5.2.1 Pertinently, in the process, delineating on the meaning of the words 'said amount of money', the Court in **Suman Sethi (supra)** stated thus.

> "We have to ascertain the meaning of the words the "said amount of money" occurring in clauses (b) and (c) to the proviso to Section 138. Reading

[4] (2000) 2 SCC 380

> the section as a whole we have no hesitation to hold that the above expression refers to the words "payment of any amount of money" occurring in the main Section 138 i.e. the cheque amount. So in a notice, under clause (b) to the proviso, demand has to be made for the cheque amount." (Para 6)

5.2.2. The Court proceeded to state further,

> "In the notice, demand has to be made for the "said amount" i.e. the cheque amount. If no such demand is made the notice no doubt would fall short of its legal requirement. Where in addition to the "said amount" there is also a claim by way of interest, cost etc. whether the notice is bad would depend on the language of the notice. If in a notice while giving the break-up of the claim the cheque amount, interest, damages etc. are separately specified, other such claims for interest, cost etc. would be superfluous and these additional claims would be severable and will not invalidate the notice." (Para 8)

5.2.3 The Court observed that the demand in the notice has to be made for the said amount which would be the 'cheque amount'. If no such demand is made the notice would fall short of its legal requirement. In the facts of that case, however, the Court held that since the cheque amount in the notice was correctly stated, merely because the respondent claimed in addition to the cheque amount, the incidental charges and notice

charges, which were severable, notice could not be branded as bad in law.

5.2.4 It was further observed that however if in the notice an ambiguous demand is made without specifying the due amount under the dishonoured cheque, the notice would fail to meet the legal requirement. In other words, what was pinpointed was that the words 'said amount' in Proviso (b) has to be same amount of the cheque which is dishonoured. The object of the notice under Proviso (b) of Section 138 of the Act was explained by this Court in **Central Bank of India vs. Saxons Farms & Ors.**[5], observing that the purpose of the notice is to give a chance to the drawer of the cheque to rectify his omission. Once the defaulter makes payment of the amount covered by the cheque as mentioned in the notice within stipulated 15 days, he would stand absolved from his liability.

5.3 This Court in **K.R. Indira (supra)**, again held that specific demand for the payment of the sum covered by the dishonoured cheque is required to be made in the notice. In that case, there was a loan transaction in the backdrop and the cheques were issued towards that payment. In absence of specific demand for the cheque amounts, the notice was held to be invalid. In **Rahul Builders vs. Arihant Fertilizers & Chemicals & Anr.**[6], the imperative character of the condition in the Proviso

[5] (1999) 8 SCC 221
[6] (2008) 2 SCC 321

(b) to Section 138 of the Act was again highlighted. Amount of Rs.8,72,409 was due to the appellant thereof from respondent No.1. Respondent issued a cheque for Rs.1,00,000/- which was dishonoured. The appellant sent notice to the respondent asking him to remit Rs.8,72,409/- .

5.3.1 This Court in **Rahul Builders (supra)** stated that one of the conditions was service of a notice making 'demand of the payment of the amount of cheque' as is evident from the use of the phraseology 'payment of the said amount of money,

> "Service of a notice, it is trite, is imperative in character for maintaining a complaint. It creates a legal fiction. Operation of Section 138 of the Act is limited by the Proviso. When the Proviso applies, the main section would not. Unless a notice is served in conformity with proviso (b) appended to Section 138 of the Act, the complaint petition would not be maintainable. Parliament while enacting the said provision consciously imposed certain conditions." (Para 10)

5.4 In more recent decision of this Court in **Dashrathbhai Trikambhai Patel vs. Hitesh**

Mahendrabhai Patel & Anr.[7] the dictum of law was reiterate in the following words,

> "The notice demanding the payment of the "said amount of money" has been interpreted by judgments of this Court to mean the cheque amount. The conditions stipulated in the provisos to Section 138 need to be fulfilled in addition to the ingredients in the substantive part of Section 138." (Para 34.5)

5.5 The different High Courts hold the view in unanimity. The High Court of Madhya Pradesh in **Gokuldas vs. Atal Bihari & Anr.**[8] observed that offence under Section 138 of the NI Act is a technical offence therefore every technical formality as required under the Section must be complied with strictly. In that case, the complaint was filed on the ground that cheque of Rs.4,30,000/- was issued in lieu of repayment of loan of Rs.4,30,000/-. A notice under Proviso (b) to Section 138 of the NI Act was sent on the ground that cheque of Rs.43,000/- was given. It was held that the notice was not for 'said amount of money' to render it invalid.

5.5.1 In **M/s. Yankay Drugs and Pharmaceuticals Ltd. Vs. CITI bank**[9]**,** the High Court of Andhra Pradesh

[7] (2023) 1 SCC 578
[8] MCRC 5458/2013
[9] 2001 DCR 609

reiterated the proposition that while demanding payment by issuing notice under Section 138(b) of the NI Act, the payee or the holder in due course must demand payment of the amount covered by the cheque. It was stated that if the demand is for a lesser amount or a higher amount not covered by the cheque, which was dishonoured, then the prosecution must fail in as much as the statutory requirement of Section 138(b) is not fulfilled. In that case the amount of cheque which was dishonoured by the bank was Rs.9,972/-. But in the notice under Section 138(b) of the NI Act, the complainant failed to make any demand for payment of the said amount, instead it was stated in the notice that the cheque was issued for Rs.3,871/-. The High Court rightly stated that the notice fell short of the statutory requirement.

5.5.2 Before the High Court of Punjab and Haryana, in **Chhabra Fabrics Private Limited vs. Bhagwan Dass**[10], it was a case where there was a discrepancy in mentioning the number of cheque which was claimed to be a typographical error. The High Court observed that even if it was true that there was a typographical error in the legal notice while typing out the cheque number, such typographical error, if any, does not meet the compliance of the mandatory provisions of Section 138 of the NI Act.

[10] Crl. Appeal No.1772-SB of 2002

5.5.3 The contention that the discrepancy in the amount mentioned in the notice under Proviso (b) of Section 138 of the NI Act was only a typographical error to be overlooked, was again negatived by the High Court of Karnataka in **K. Gopal vs. Mr. T. Mukunda**[11]. In that case, the accused issued two cheques of Rs.2,00,000/- each but in the legal notice the amount demanded was only Rs.10,000/-. The argument advanced by the learned counsel was that it was just a typographical error. The High Court asserted that Section 138(b) of the NI Act contemplates issuance of notice demanding the amount covered under the cheque and in that view the notice has to be treated as defective in law. The Delhi High Court in **Sunglo Engineering India Pvt. Ltd. Vs. The State & Ors.**[12] quashed the complaint where the amount demanded in the notice was double the amount of cheque which was issued for Rs.1,00,00,000/-, akin to the facts of the present case.

6. The interpretation of the words 'said amount' in Proviso (b) to Section 138 of the NI Act as above is based on the principle of statutory interpretation that penal statute would always be construed and applied strictly. This Court in **M. Narayanan Nambiar vs. State of Kerala**[13], spoke on the rule of construction of a penal provision in its true perspective by quoting from the

[11] Criminal Appeal No.1011 of 2010
[12] MANU/DE/3805/2021
[13] AIR 1963 SC 1116

English decision in **Dyke vs. Elliott**[14] which was again referred to in a more recent decision of this Court in **Balaji Traders vs. State of U.P. & Anr.**[15]

> "A decision of the judicial Committee in Dyke v. Elliot, (1) cited by the learned counsel as an aid for construction neatly states the principle and therefore may be extracted:-
>
> Lord justice James speaking (1)(1872) L. R. 4 P.C. 184, 191, for the Board observes at P.191:
>
> "No doubt all penal Statutes are to be construed strictly, that is to say, the Court must see that the thing charged as an offence is within the plain meaning of the words used, and must not strain the words on any notion that there has been a slip, that there has been a casus omissus, that the thing is so clearly within the mischief that it must have been intended to be included if thought of. On the other hand, the person charged has a right to say that the thing charged although within the words, is not within the spirit of the enactment.""

6.1 The Privy Council decision in **Dyke vs. Elliott (supra)** quoted by this Court with approval stated that the

[14] (1872) 4 PC 184
[15] 2025 SCC OnLine SC 1314,

court must see that the thing charged as an offence is within the plain meaning of the words used and must not strain the words on any notion that there has been a slip, that there has been a casus omissus, that the thing is so clearly within the mischief that it must have been intended to be included if thought of. It was thereafter observed that where the thing is brought within the words and within the spirit, there a penal enactment is to be construed, like any other instrument, according to the fair commonsense meaning of the language used, and the court is not to find or make any doubt or ambiguity in the language of a penal statute.

6.2 The interpretative canon of strict construction of penal statute was highlighted also in the Craies Statute Law[16] wherein the decision of **U.S. v. Wiltberger**[17] was referred to observing.

> "The distinction between a strict construction and a more free one has, no doubt, in modern times almost disappeared, and the question now is, what is the true construction of the statute? I should say that in a criminal statute you must be quite sure that the offence charged is within the letter of the law. This rule is said to be founded on the tenderness of the law for the rights of

[16] 7th Edn. at p.529
[17] 18 US 76 (1820)

> individuals, and on the plain principle that the power of punishment is vested in the Legislature, and not in the judicial department, for it is the Legislature, not the Court, which is to define a crime and ordain its punishment."

6.3 Having noticed the above principle of construction of penal statute, this Court in **Suman Sethi (supra)** concluded.

> " There is no ambiguity or doubt in the language of Section 138. Reading the entire section as a whole and applying common sense, from the words, as stated above, it is clear that the legislature intended that in a notice under clause (b) to the proviso, the demand has to be made for the cheque amount." (Para 7)

6.4 The proposition that the penal provision has to be construed strictly was again asserted by this Court in **K.K. Ahuja vs. V.K. Vora & Anr.**[18] In the context of provision of Sections 141 and 138 of the NI Act it was observed in para 17 of the judgment that penal statutes are to be construed strictly and that if conditions are scraped, the courts will insist upon strict literal compliance. It was stated that there is no question of inferential or implied compliance.

[18] (2009) 10 SCC 48

7. When the Proviso (b) to Section 138 stipulates the service of notice as one of the conditions for constituting the offence, and when the words 'said amount' is incorporated in the language of the provision, it is the amount which is specifically referable to the amount recoverable under the cheque in question. Reading Section 138 of the Act in a composite manner, the word 'said amount' occurring in the Proviso (b) is connectible with and operates in conjunction with language in the parent part of the Section 'where any cheque drawn by a person ……of any amount of money'.

7.1 The words 'said amount' and the phrase 'any amount of money' have the same purport signifying the cheque amount. They operate hand-in-hand for the purpose of applicability of the Section. The nexus or linkage between the two is enacted by the Legislature with a purpose of making the two to be the same and inseparable components, the former describing the offence and the latter denoting the condition to be fulfilled for constituting the offence.

8. From the afore-stated reiterative pronouncements and the principles propounded by the courts, the position of law that emerges is that the notice demanding the payment of the amount covered by the dishonoured cheque is one of the main ingredients of the offence under Section 138 of the NI Act. In the event of the main ingredient not being satisfied on account of

discrepancy in the amount of cheque and one mentioned in the notice, all proceedings under Section 138 of the NI Act would fall flat as bad in law. The notice to be issued under Proviso (b) to Section 138 of the Act, must mention the same amount for which the cheque was issued. It is mandatory that the demand in the statutory notice has to be the very amount of the cheque. After mentioning the exact cheque amount, the sender of the service may claim in the notice amounts such as legal charges, notice charges, interest and such other additional amounts, provided the cheque amount is specified to be demanded for payment.

8.1 A failure in above regard, namely when the cheque amount is not mentioned in the Proviso (b) notice or the amount different than the actual cheque amount is mentioned, in the notice, such notice would stand invalid in eye of law. The notice in terms of Proviso (b) being a provision in penal statute and a condition for the offence, it has to be precise while mentioning of the amount of the cheque which is dishonoured. Even if the cheque details are mentioned in the notice but corresponding amount of cheque is not correctly mentioned, it would not bring in law the validity for such notice. Here the principle of reading of notice as a whole is inapplicable and irrelevant. Any elasticity cannot be adopted in the interpretation. It has to be given technical interpretation.

8.2 The condition of notice under Proviso (b) is required to be complied with meticulously. Even typographical error can be no defence. The error even if typographical, would be fatal to the legality of notice, given the need for strict mandatory compliance. And in the facts of the present case, the explanation that mentioning of wrong amount in the cheque was in the nature of typographical or inadvertent error could hardly be accepted, for, the so called mistake occurred and recurred in both the notices dated 08.06.2012 and 14.09.2012.

9. When the provision is penal and the offence is technical, there is no escape from holding that the 'said amount' in proviso (b) cannot be the amount other than mentioned in the cheque in question for dishonour of which the notice is received, nor the mentioning of omnibus amount in the notice would fulfil the requirement. It has to be held that in order to make a valid notice under the Proviso (b) to Section 138 of the NI Act, it is mandatory that 'said amount' to be mentioned therein is the very amount of cheque, and none other.

10. Reverting to recollect the facts of this case, the cheque which was drawn by the respondent was for Rs.1,00,000/- whereas in the notice issued under Proviso (b) to Section 138 of the NI Act against the respondent, appellant mentions the amount of Rs.2,00,000/-. The rigours of law on this score being strict, the defence

would not hold good that the different amount mentioned in the notice was out of inadvertence. Even if the cheque number was mentioned in the notice, since the amount was different, it created an ambiguity and differentiation about the 'said amount'. The notice stood invalid and bad in law. The order of quashment of notice was eminently proper and legal.

11. No case is made out for interfering with the impugned order of the High Court. The appeals stand dismissed.

In view of the disposal of the main appeals, all the interlocutory applications as may be pending stands disposed of.

.....,CJI.
[B.R. GAVAI]

....., J.
[N.V. ANJARIA]

NEW DELHI;
SEPTEMBER 19, 2025.

(VK)