



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 18<sup>th</sup> December, 2025.*  
*Pronounced on: 24<sup>th</sup> December, 2025*  
*Uploaded on: 25<sup>th</sup> December, 2025*

+ CRL.M.C. 8175/2025, CRL.M.A. 34154/2025, CRL.M.A. 34155/2025, CRL.M.A. 34156/2025 & CRL.M.A. 34157/2025

DINESH KUMAR PANDEY

.....Petitioner

Through: Mr. Sumit Chauhan, Mr. Sushant Kumar, Advocates.

versus

M/S SINGH FINLEASE PVT. LTD. & ANR. ....Respondents

Through: Mr. Virat K. Anand, Mr. Kumar Shashank, Mr. Harish Nadda, Mr. Vikalp Singh, Ms. Srishty Kaul, Ms. Swati Kwatra, Advocates.

+ CRL.M.C. 8176/2025, CRL.M.A. 34158/2025, CRL.M.A. 34159/2025, CRL.M.A. 34160/2025 & CRL.M.A. 34161/2025

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+ CRL.M.C. 8177/2025, CRL.M.A. 34162/2025, CRL.M.A.



**34163/2025, CRL.M.A. 34164/2025 & CRL.M.A. 34165/2025**

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+ CRL.M.C. 8178/2025, CRL.M.A. 34166/2025, CRL.M.A. 34167/2025, CRL.M.A. 34168/2025 & CRL.M.A. 34169/2025

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**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J.:**

1. These petitions under Section 528 Bharatiya Nagarik Suraksha



Sanhita, 2023<sup>1</sup> impugn the complaints under Sections 138 and 141 of the Negotiable Instruments Act, 1881,<sup>2</sup> instituted by the Respondent, a Non-Banking Financial Company, in relation to loan facilities extended to two private limited companies. The Petitioner, who was a director of the borrower companies at the time of sanction and execution of the loan agreements and related documentation, has been arrayed as an accused in each complaint. He contends that, having resigned from the Board prior to dishonour of the cheques and the alleged commission of the offence under Section 138 NI Act, he cannot be held vicariously liable under Section 141, and that the summoning orders and consequential proceedings against him deserve to be quashed.

*Factual background*

2. The Respondent, a NBFC, is engaged in advancing loans and other financial facilities. It asserts that it sanctioned and disbursed loan facilities to the following borrower companies:

- (i) South Centre of Academy Pvt. Ltd. (Criminal Complaints No. 1835/2024 and 1834/2024, impugned in CRL.M.C. 8175/2025 and 8177/2025, respectively); and
- (ii) Sampooran Academy Pvt. Ltd. (Criminal Complaints No. 1842/2024 and 1843/2024, impugned in CRL.M.C. 8176/2025 and 8178/2025, respectively).

3. The loan amounts were to be repaid in equated monthly instalments with interest, in terms of the respective amortisation schedules. The Respondent alleges that the cheques issued towards discharge of these

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<sup>1</sup> “BNSS”

<sup>2</sup> “the NI Act”



liabilities were dishonoured on presentation with the remark “funds insufficient”. Statutory demand notices under Section 138 NI Act were issued on 22<sup>nd</sup> March, 2024 and dispatched on 1<sup>st</sup> April, 2024. As the borrower companies and the accused persons did not make payment within the statutory period of 15 days, the Respondent instituted the present complaints under Section 138 NI Act against the companies, the Petitioner, and other accused.

4. The Petitioner was a director of the borrower companies when the loan facilities were sanctioned, the documents executed, and the cheques in question issued. He is also the signatory of those cheques. His case, however is that he resigned from the Board of Directors prior to the dates of dishonour, with effect from 1<sup>st</sup> April, 2023 in respect of South Centre of Academy Pvt. Ltd., and with effect from 1<sup>st</sup> January, 2024 in respect of Sampoon Academy Pvt. Ltd. He places reliance on Form DIR-12 and the company master data on the Ministry of Corporate Affairs portal to show that these resignations were duly recorded in the statutory corporate records.

5. The dates of resignation vis-à-vis the dates of cheque dishonour in the present batch are broadly as under:

| <i>S. No.</i> | <i>Item No.</i> | <i>CrL.MC.</i>    | <i>Date of Loan, Loan No. and Loan Amount</i>     | <i>Date of First default on Loan</i> | <i>Date Resignation of the Petitioner</i>                                                                   | <i>Particulars of Cheque</i>                           | <i>Date of Dishonour of Cheque</i>                   |
|---------------|-----------------|-------------------|---------------------------------------------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------------|
| 1.            | 62              | CrL.MC.-8175/2025 | 10.06.2022<br>FWDELBL0037<br>3<br>Rs. 50,00,000/- | 10.09.2023                           | 01.04.2023<br>Resigned as director of South Center of Academy Private Limited<br>(Annexure A-8 Page No. 71) | Cheque No. 000012 dated 12.03.2024 for Rs. 54,90,827/- | 12.03.2024<br>(Return Memo-Annexure A-6 Page No. 62) |
| 2.            | 63              | CrL.MC.-8176/2025 | 16.07.2022<br>FWDELBL0037<br>5                    | 10.04.2023                           | 01.01.2024<br>Resigned as director of                                                                       | Cheque No. 000039 dated 15.03.2024 for                 | 15.03.2024<br>(Return Memo-                          |



|    |    |                           |                                                        |                |                                                                                                                            |                                                                      |                                                                  |
|----|----|---------------------------|--------------------------------------------------------|----------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------------------------------------|
|    |    |                           | Rs.<br>1,50,00,000/-                                   |                | Sampoorn<br>Academy Private<br>Limited<br>(Annexure A-8<br>Page No. 73)                                                    | Rs.<br>1,62,41,182/-                                                 | Annexure A-6<br>Page No. 63)                                     |
| 3. | 64 | Crl.MC.-<br>8177/202<br>5 | 29.11.2022<br>FWDELBL0038<br>1<br>Rs,<br>1,00,00,000/- | 10.04.2<br>023 | 01.04.2023<br>Resigned as<br>director of South<br>Center of<br>Academy Private<br>Limited<br>(Annexure A-8<br>Page No. 71) | Cheque No.<br>000029 dated<br>12.03.2024 for<br>Rs.<br>1,12,06,870/- | 12.03.2024<br>(Return<br>Memo-<br>Annexure A-6<br>Page No. 62)   |
| 4. | 65 | Crl.MC.-<br>8178/202<br>3 | 17.08.2021<br>FWDELBL0036<br>1<br>1,50,00,000/-        | 10.02.2<br>023 | 01.01.2024<br>Resigned as<br>director of<br>Sampoorn<br>Academy Private<br>Limited<br>(Annexure A-8<br>Page No. 73)        | Cheque No.<br>000044 dated<br>12.03.2024 for<br>Rs.<br>1,63,95,598/- | 12.03.2024<br>(Return<br>Memo-<br>Annexure A-6<br>Page No. 63)'' |

### *Petitioner's contentions*

6. Counsel for the Petitioner submits that the complaints and summoning orders constitute an abuse of process insofar as they implicate him. It is contended that the cheques in question were dishonoured long after he had resigned from the Board of Directors, and that the offence under Section 138 of the NI Act is complete only upon dishonour of the cheque, issuance of statutory notice, and failure to make payment within the prescribed period. His liability under Section 141, it is urged, must therefore be tested with reference to his status at the time when the offence is deemed to have been committed. Even assuming his involvement at the inception of the loan transaction, or his signature on the loan documents or cheques, the position does not change. Once it is shown that he had demitted office prior to the dates of dishonour and notice, he cannot be treated as a person in charge of or responsible for the conduct of the company's business. The continuation of the proceedings against him is, therefore, unsustainable.



7. It is urged that the petitioner's resignation is borne out from unimpeachable, public records: the resignation letter tendered to the Board, Form DIR-12 filed with the MCA, and the certified MCA portal extracts reflecting cessation of his directorship with effect from that date. Receipts issued by the MCA acknowledging the filing of Form DIR-12 and the certified copy of the master data are relied upon to show that the fact of resignation is a matter of record and not in serious dispute.

8. In support, reliance is placed on the decision of the Supreme Court in ***Rajesh Viren Shah v. Redington (India) Limited***,<sup>3</sup> where the Court, on broadly similar facts, quashed proceedings against a former director whose resignation had preceded the date of the alleged Section 138 offence, holding that the *sine qua non* for vicarious liability under Section 141 is that the accused must be in charge of and responsible for the conduct of the business at the time the offence is committed.

*Respondent's contentions*

9. On the other hand, counsel for the Respondent relies on the chronology emerging from the record. It is pointed out that the loan facilities were sanctioned between August, 2021 and November, 2022, when the Petitioner was admittedly a director of the borrowing companies and had executed the loan documentation on their behalf. The first defaults occurred in early 2023. The resignations now relied upon, as reflected in Form DIR-12, took effect only with effect from 1<sup>st</sup> April, 2023 or 1<sup>st</sup> January, 2024, whereas the cheques towards repayment, bearing dates in March, 2024, were subsequently presented and dishonoured.

10. On this basis, it is urged that the timing of the resignations, following



the onset of default but preceding dishonour of the cheques, is not coincidental. The Petitioner has been a key director of group companies with common directors, who negotiated the facilities, signed the loan documents, and is one of the signatories to the cheques issued towards discharge of liability. There is no genuine disengagement from the affairs of the companies and asserts that, notwithstanding the ROC filings, the Petitioner continued to control the borrower entities “from behind the curtain” and remained effectively in charge when the cheques were issued and dishonoured. These facts, taken with the statutory presumptions under Sections 118 and 139 of the NI Act, are sufficient to justify his arraignment and prosecution.

11. It is argued that the genuineness, timing, and legal effect of the alleged resignations are themselves disputed questions of fact. The Petitioner continued to be actively associated with the management of the borrower companies even thereafter. It is emphasised that the presumptions of issuance in discharge of a legally enforceable debt under Sections 118(a) and 139 NI Act cannot be displaced at the threshold merely by producing Form DIR-12 or resignation letters. If the Petitioner wishes to rely on his claimed cessation from the Board to escape vicarious liability, he must rebut the presumptions by leading evidence and demonstrate that he was not in charge of and responsible for the conduct of the business of the accused companies when the offence was committed.

12. Reliance is placed on the judgment of this Court in *Vishal Arora v. Yes Bank Limited*,<sup>4</sup> where a similar plea of resignation was rejected at the

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<sup>3</sup> 2024 INSC 111

<sup>4</sup> (2023) 21 Comp Cas-OL 65



quashing stage, and it was held that disputes regarding the authenticity and effect of resignation, in the face of statutory presumptions, ought to be left to be tested at trial. It is pointed out that the said decision has not been interfered with by the Supreme Court in SLP (Crl.) No. 2302/2023, which was dismissed on 27<sup>th</sup> February, 2023. Reliance is also placed on ***Kalamani Tex & Anr. v. P. Balasubramanian***,<sup>5</sup> to emphasize that the presumptions under Sections 118 and 139 NI Act are robust; once the issuance of the cheque is admitted or established, the burden squarely shifts to the accused, and self-serving material, without substantive evidence, is insufficient to rebut the presumption. In these circumstances, it is contended that the Petitioner's plea of resignation and lack of responsibility cannot be accepted on affidavit at the Section 528 BNSS stage, and that the alleged resignations must be tested in evidence before the Trial Court.

### ***Analysis***

13. In respect of complaints under Sections 138 and 141 NI Act, the power to interdict proceedings at the threshold is narrowly confined. It may be exercised where, even if the averments in the complaint are accepted in full, the basic ingredients of the offence are not disclosed against the accused, or where unimpeachable, incontrovertible material placed on record completely dislodges the factual foundation of the accusation. It is not a stage at which competing versions are weighed on probabilities or evidence is examined as in a trial.

### ***Section 138: essential ingredients***

14. Section 138 NI Act creates a specific offence where a cheque drawn by a person on an account maintained by him is returned unpaid for

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<sup>5</sup> (2021) 5 SCC 283





insufficiency of funds or because it exceeds the arrangement, and the drawer fails to pay within the stipulated period after statutory notice. The offence comprises five components: (i) drawing of the cheque; (ii) presentation of the cheque to the bank; (iii) return of the cheque unpaid; (iv) issuing a notice in writing demanding payment within the prescribed time; and (v) failure of the drawer to make payment within fifteen days of receipt of such notice.

*Section 141 - vicarious liability of directors and signatories: Case Laws*

15. Section 141 NI Act deals with offences by companies. Sub-section (1) fastens liability on “every person who, at the time the offence was committed, was in charge of, and responsible to, the company for the conduct of its business”, in addition to the company itself. Sub-section (2) further provides that where the offence is committed with the consent or connivance of, or due to negligence by, any director, manager, secretary or other officer of the company, such person is deemed to be guilty. The provision thus embodies two distinct though overlapping routes to liability: (a) persons who, at the time the offence was committed, were in charge of and responsible for the conduct of the company’s business; and (b) persons whose personal culpability is alleged on the basis of consent, connivance, or neglect in relation to the commission of the offence, irrespective of their role in the day-to-day management of the company.

16. In ***SMS Pharmaceuticals Ltd. v. Neeta Bhalla and Anr.***,<sup>6</sup> a three-Judge Bench held that a bare assertion in the complaint that a person is a director is insufficient to fasten liability under Section 141(1) NI Act. The complaint must contain basic averments that, at the time of commission of the offence, such person was in charge of and responsible for the conduct of



the company's business. At the same time, the Court clarified that no elaborate particulars are needed where the accused is a managing director or joint managing director, since their very office carries a presumption of responsibility. It was further observed that the signatory of the cheque "is clearly responsible for the incriminating act" and can be prosecuted even without detailed averments as to day-to-day control. In such cases, the statutory presumptions under Sections 118 and 139 NI Act operate in favour of the complainant, leaving it to the accused to rebut them at trial.

17. In *National Small Industries Corporation Ltd. v. Harmeet Singh Paintal*,<sup>7</sup> the Supreme Court reiterated that Section 141, being a provision on vicarious liability, must be strictly construed. Mere designation as a director, in the absence of specific allegations about role and responsibility, is not enough. Directors who are neither managing directors nor signatories, and against whom no role in day-to-day affairs is pleaded, cannot be impleaded on the strength of omnibus assertions. By contrast, a person who signs the cheque on behalf of the company occupies a distinct position. Such a signatory is directly involved in the act that leads to dishonour, and his role, in principle, falls within the sweep of Section 141, subject to any defence he may establish at trial.

*Quashing complaints under Section 141: "unimpeachable evidence" standard*

18. Against this statutory backdrop, the contours of when quashing is permissible have been clarified in a line of decisions of the Supreme Court.

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<sup>6</sup> (2005) 8 SCC 89

<sup>7</sup> (2010) 3 SCC 330



19. In *Gunmala Sales (P) Ltd. v. Anu Mehta*,<sup>8</sup> the Supreme Court held that where the complaint contains the basic averment that an accused director was in charge of and responsible for the conduct of the company's business, the proceedings ought not to be quashed at the threshold. An exception was recognised where the director places on record unimpeachable and incontrovertible material showing that he could not have had any role in the conduct of the company's business at the relevant time. Even then, such power is to be exercised with caution and in a narrow category of cases.

20. In a recent decision, the Supreme Court in *Adhiraj Singh v. Yograj Singh & Others*,<sup>9</sup> where the Court was dealing with a director who had admittedly resigned prior to the issuance of the cheques in question. The factum and timing of his resignation were not in dispute, and the cheques were signed by another authorised signatory on behalf of the company. On those admitted facts, the Supreme Court held that, at the time the offence under Section 138 NI Act was committed, the appellant was no longer connected with the company's affairs and could not, therefore, be treated as a person in charge of and responsible for the conduct of its business so as to attract Section 141. The quashing of proceedings in that case thus turned on a clear and undisputed record of complete disengagement before the very inception of the cheque transactions.

21. In *Rajesh Viren Shah v. Redington (India) Ltd.*<sup>10</sup> the same principle was applied in favour of former directors who had resigned long before issuance of the cheques. Their resignations stood recorded in Form 32, the

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<sup>8</sup> (2015) 1 SCC 103

<sup>9</sup> 2024 SCC OnLine SC 5558



statutory records of the company had been duly updated, and, significantly, the complainant did not dispute either the genuineness of the resignations or allege continued control. On those facts, the Court held that the basis for fastening vicarious liability was seriously undermined and quashed the proceedings.

22. ***DCM Financial Services Ltd. v. J.N. Sareen***,<sup>11</sup> though not cited by the Petitioner, also falls in this limited category. At first glance, it appears close to the present case, but the factual and legal matrix was materially different. The respondent therein had resigned from the directorship of the company long prior to the presentation and dishonour of the post-dated cheque, and the complainant had been repeatedly informed in writing of such resignation. Crucially, the complaint did not contain specific averments that the respondent continued to be in charge of or responsible for the conduct of the company's business at the relevant time, nor was the prosecution founded on his role as a signatory so as to attract liability under Section 141(2) of the NI Act. The plea that he was an authorised signatory was raised for the first time before the Supreme Court and was expressly rejected. On those admitted facts, fastening criminal liability was held to be a misuse of the provision. In the present case, by contrast, the Respondent disputes both the genuineness and effect of the Petitioner's alleged resignations and specifically attributes to him the role of signing the subject cheques. The ratio of ***DCM Financial Services*** cannot, therefore, be transposed onto the facts at hand.

*Disputed resignation and role: limited scope for quashing*

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<sup>10</sup> 2024 INSC 111

<sup>11</sup> (2008) 8 SCC 1



23. There is an equally clear line of authorities holding that, where the timing or genuineness of resignation is itself in dispute, and the accused is alleged to have been responsible for the company's affairs at a legally relevant stage of the transaction, the High Court should be slow to exercise its inherent jurisdiction to quash proceedings.

24. In *Kalamani Tex v. P. Balasubramanian*,<sup>12</sup> the Supreme Court reiterated that once execution of the cheque is admitted or proved, the statutory presumption that it was issued for discharge of a legally enforceable debt or liability must be drawn, and the burden shifts to the accused to rebut that presumption on the touchstone of preponderance of probability. A merely plausible or speculative defence will not suffice.

25. In *Nishant Mukul v. Nischal Aggarwal*,<sup>13</sup> this Court declined to quash complaints under Sections 138 and 141 of the NI Act where the petitioner-director relied on subsequent resignation and corporate filings, but the record disclosed that he was a director at the time of issuance of cheques and the material regarding resignation was not unimpeachable. The Court held that questions concerning the effect of resignation, petitioner's responsibility for the conduct of the company's affairs, and applicability of Section 141 involved disputed questions of fact which ought to be examined at trial and not adjudicated in proceedings under Section 482 CrPC.

26. In *N. Rangachari v. Bharat Sanchar Nigam Ltd.*,<sup>14</sup> the Supreme Court clarified that while vicarious liability under Section 141 NI Act must be strictly construed, the provision is not to be read so narrowly as to defeat its object. Where the complaint contains the requisite averments that the

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<sup>12</sup> (2021) 5 SCC 283

<sup>13</sup> 2025 SCC OnLine Del 6432



accused was in charge of and responsible for the conduct of the company's business, and the accused is shown to have been a director who participated in the transaction in question, the Court may legitimately proceed at the summoning stage without embarking upon a detailed enquiry. The correctness of such averments, and the accused's plea of non-involvement, are matters to be tested in the course of trial.

27. In *Malwa Cotton & Spg. Mills Ltd. v. Virsa Singh Sidhu*,<sup>15</sup> the Supreme Court set aside the order of the High Court quashing proceedings against a Director on the ground of an alleged prior resignation, holding that where such resignation itself was disputed and involved questions of fact, particularly in relation to statutory filings, the matter ought not to have been short-circuited at the threshold and was required to be tested at trial.

28. In *Vishal Arora v. Yes Bank Ltd.*,<sup>16</sup> this Court declined to quash proceedings under Sections 138 and 141 of the NI Act where the petitioners, though not directors, were authorised signatories who had admittedly signed the cheques and related declarations at the time of availing credit facilities. The defence of subsequent resignation and the plea that blank or undated cheques were misused were held to raise disputed questions of fact. Noting that statutory presumptions under Sections 118 and 139 stood attracted, the Court held that issues relating to the effect of resignation and the circumstances of issuance and presentation of cheques could not be adjudicated at the quashing stage and would have to await trial.

29. In *S.P. Mani & Mohan Dairy v. Snehalatha Elangovan*,<sup>17</sup> the

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<sup>14</sup> N. Rangachari v. BSNL, (2007) 5 SCC 108

<sup>15</sup> (2008) 17 SCC 147

<sup>16</sup> 2022 SCC OnLine Del 3964

<sup>17</sup> (2023) 10 SCC 685



Supreme Court clarified that the offence under Section 138 is not a single or instantaneous act, but consists of a series of acts and omissions, namely, the drawing of the cheque, its presentation, dishonour, issuance of statutory notice and failure to make payment within the prescribed period. For the purposes of Section 141, responsibility cannot be confined to a single point in time, and persons in charge at different legally relevant stages may be proceeded against. Any narrower interpretation would defeat the object of the provision.

*In the facts of the present case*

30. The complaints specifically aver that the Petitioner was in charge of and responsible for the conduct of the business of the borrower companies at the relevant time. They refer to his role in negotiating the loan facilities, executing the loan documents, and signing the cheques issued towards repayment. On this basis, vicarious liability is sought to be fastened under Section 141 NI Act. These pleadings meet the basic requirement identified in ***SMS Pharmaceuticals*** and ***National Small Industries Corporation***, and the Petitioner does not contend that the complaints are defective on this score or that the companies have not been arraigned as accused.

31. The Petitioner's defence rests essentially on his claimed resignations and the corresponding filings in Form DIR-12 and MCA extracts. He contends that by the time the cheques were dishonoured and the cause of action under Section 138 crystallised, he had demitted office and ceased to be responsible for the affairs of the borrower companies. He also relies on decisions such as ***Rajesh Viren Shah*** and ***Adhiraj Singh*** to argue that such documentary material amounts to unimpeachable evidence warranting quashing at the threshold.



32. The present record does not, however, place the case in the narrow category where such relief is ordinarily granted. The chronology is important. In two of the loan accounts, the first defaults are reflected in February and April 2023. The Petitioner's resignations from the related borrower entities are then shown as effective from 1<sup>st</sup> April, 2023 and 1<sup>st</sup> January, 2024. In one matter, the first default is on 10<sup>th</sup> April, 2023, while resignation is recorded as 1<sup>st</sup> April, 2023, only nine days earlier. In another, the first default is in February 2023 in one facility, with resignation recorded in April 2023, while the Petitioner allegedly continued to be involved with allied group entities. Against this background, the Respondent disputes the genuineness and bona fides of the resignations and describes them as a device set in motion after the accounts slipped into default. Whether these resignations reflect a genuine and complete disengagement or a self-serving attempt to insulate the Petitioner from looming liability is itself a live factual issue.

33. There is also no dispute that the Petitioner signed the cheques in question. He does not allege that the cheques were issued by any other officer or that his signatures were forged. A director who is a signatory to the cheque occupies a distinct position and the extent of his continuing association with the company's business when the underlying transactions were carried out is a matter of evidence. Those issues cannot be adjudicated in proceedings invoking the Court's quashing jurisdiction.

34. The Petitioner has placed on record Form DIR-12 and MCA portal extracts. These filings may well be genuine as corporate records, but the Respondent contests their timing and legal effect, and maintains that the Petitioner continued to control or influence the borrower companies "from





behind the curtain”. That dispute goes to the heart of whether he remained “in charge of, and responsible to, the company for the conduct of its business” during the period when the cheques were issued, presented and dishonoured, and when payment was not made after notice. In view of ***Gunmala Sales*** and the later decisions, such contested facts and material cannot be treated as unimpeachable exculpatory evidence at the threshold so as to justify quashing.

35. It also emerges from the record, as noticed by the courts below, that the Petitioner has not taken a consistent stand regarding the issuance of the cheques, while at the same time relying on his resignation and corporate filings to avoid liability. The circumstances in which the cheques were issued, the nature of his role when the credit facilities were availed and when the cheques were drawn, and the degree of his continuing involvement in the companies’ affairs are all fact-intensive questions that must be tested in evidence.

36. Further, once execution of the cheques is shown, the presumptions under Sections 118 and 139 NI Act operate in favour of the complainant. As explained in ***Kalamani Tex***, these presumptions extend not only to consideration but also to the existence of a legally enforceable debt or liability. Whether the Petitioner succeeds in rebutting those presumptions on the standard of preponderance of probability is a matter for the trial court after both sides have led evidence. It is not possible, in a petition under Section 528 BNSS, to pre-judge that contest.

37. Lastly, as clarified in ***S.P. Mani & Mohan Dairy***, the offence under Section 138 is a composite one, consisting of several steps from drawing of the cheque up to the failure to pay after notice. For the purposes of Section



141, responsibility is not frozen to the precise date of dishonour alone. Persons who were in charge of and responsible for the conduct of the company's business at different legally relevant stages of the transaction may be proceeded against. In the present case, the Petitioner's admitted role in negotiating the loans, executing the documentation and signing the cheques, coupled with the disputed nature and timing of his resignations, takes the matter outside the narrow class of cases where quashing has been permitted on the strength of unimpeachable exculpatory material.

38. In this backdrop, accepting the Petitioner's plea at this stage would require the Court to enter into a factual adjudication on controverted issues and to treat contested material as conclusive in his favour. That is not the remit of the Court while exercising jurisdiction under Section 528 BNSS in matters arising under Sections 138 and 141 NI Act. The appropriate course is to leave these issues to be tested at trial, where the Petitioner will be at liberty to lead evidence in support of his defence.

### ***Conclusion***

39. The impugned complaints and summoning orders disclose the basic ingredients of an offence under Section 138 read with Section 141 NI Act against the Petitioner, both as a signatory to the cheques and *prima facie* as a person alleged to have been in charge of the companies' affairs at the relevant time. The material relied upon by the Petitioner does not meet the exacting threshold required to invoke the extraordinary jurisdiction under Section 528 BNSS to scuttle the prosecution at its very inception. The Petitioner will remain at liberty to demonstrate that he had genuinely stepped out of the management, that his signatures were obtained in circumstances disentitling the complainant from invoking Section 141



against him, or that he otherwise discharges the burden cast upon him by the statutory presumptions. The trial court shall consider such material, if proved, in accordance with law, uninfluenced by any observation on the merits in this order.

40. Accordingly, the petitions are dismissed along with pending applications.

**SANJEEV NARULA, J**

**DECEMBER 25, 2025/ab**