THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2471 of 2022
CRLMC No.2481 of 2022
CRLMC No.3244 of 2023
&
CRLMC No.3285 of 2023
CNR No. ODHC010589752022

(In the matter of an applications under Section 482 of the Criminal Procedure Code, 1973)

CRLMC No.2471 of 2022

M/s. Sag Projects Pvt. Ltd. and another ……. Petitioners

-Versus-

M/s. Siddhartha Engineering Pvt. Ltd. ……. Opp. Party

For the Petitioners : Mr. Devashis Panda, Advocate
For the Opposite Party : Mr. Laxmidhar Pangari, Senior Advocate
Mr. Kishore Chandra Kar, Advocate

CRLMC No.2481 of 2022

M/s. Sag Projects Pvt. Ltd. and another ……. Petitioners

-Versus-

M/s. Siddhartha Engineering Pvt. Ltd. ……. Opp. Party

For the Petitioners : Mr. Devashis Panda, Advocate
For the Opposite Party : Mr. Laxmidhar Pangari, Senior Advocate
Mr. Kishore Chandra Kar, Advocate

CRLMC No.3244 of 2023

M/s. Sag Projects Pvt. Ltd. and another ……. Petitioners

-Versus-

M/s. Siddhartha Engineering Pvt. Ltd. ……. Opp. Party

For the Petitioners : Mr. Devashis Panda, Advocate
For the Opposite Party : Mr. Laxmidhar Pangari, Senior Advocate
Mr. Kishore Chandra Kar, Advocate

CRLMC No.3285 of 2023

M/s. Sag Projects Pvt. Ltd. and another ……. Petitioners

-Versus-

M/s. Siddhartha Engineering Pvt. Ltd. ……. Opp. Party

For the Petitioners : Mr. Devashis Panda, Advocate
For the Opposite Party : Mr. Laxmidhar Pangari, Senior Advocate
Mr. Kishore Chandra Kar, Advocate

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 09.07.2026 :: Date of Judgment: 30.07.2026

S.S. Mishra, J. Since all the above CRLMCs arise out of the same Memorandum of Understanding (MoU) executed between the same parties and involve common questions of fact and law, they were heard analogously and are being disposed of by this common judgment.

2. The complainant-opposite party has initiated four complaint cases, namely, I.C.C. Case No.929 of 2022, I.C.C. Case No.2035 of 2022, I.C.C. Case No.4155 of 2022 and I.C.C. Case No.6069 of 2022 for the alleged commission of an offence under Section 138 of the Negotiable Instruments Act on account of dishonour of cheques issued by the petitioner-company. Upon consideration of the materials on record, the learned trial Court, vide orders dated 18.02.2022, 08.04.2022, 09.08.2022 and 15.11.2022 respectively, took cognizance of the offence under Section 138 of the N.I. Act against the petitioners. Aggrieved by the aforesaid orders taking cognizance of the offence, the petitioners have preferred the present petitions seeking quashing of the said orders as well as the entire criminal proceedings initiated against them in the aforesaid complaint cases.

3. Heard Mr. Devashis Panda, learned counsel appearing for the petitioners and Mr. Laxmidhar Pangari, learned Senior Counsel appearing for the opposite party.

4. The prosecution case, in brief, is that petitioner No.1-Company, represented through its Director (petitioner No.2), approached the opposite party-company seeking its technical qualifying credentials for participating in the bid floated by U.P. Power Transmission Corporation Ltd. (UPPTCL) for the project titled "Construction of 220/33 KV GIS

Substation, Khorabar (Gorakhpur) with SAS on turnkey basis." Pursuant thereto, the parties executed a Memorandum of Understanding (MoU) dated 10.06.2021, whereunder the opposite party agreed to provide technical services to the petitioner-company in consideration of technical service fees at the rate of 1.8% of the total contract value, amounting to Rs.69,18,480/-, payable in four instalments in terms of Clause 2.5 of the MoU. It is further alleged that, in terms of Clause 2.5(g) of the MoU, the petitioners issued four security cheques in favour of the opposite party, though according to the complainant, the cheque particulars were subsequently filled up in accordance with the understanding between the parties.

It is the further case of the complainant that upon award of the contract by UPPTCL and the respective milestones contemplated under the MoU having been achieved, the instalments of the technical service fees became due and payable. Despite repeated demands, the petitioners allegedly failed to make payment, whereupon petitioner No.2 requested the complainant to present the respective cheques towards discharge of the outstanding liability. Accordingly, cheque No.013442 dated

30.10.2021 for Rs.29,54,700/-, cheque No.013441 dated 30.01.2022 for Rs.9,84,900/-, cheque No.013444 dated 30.04.2022 for Rs.9,84,900/-, and cheque No.013445 dated 30.07.2022 for Rs.9,84,900/- were presented for encashment on different dates. The said cheques, however, were dishonoured by the drawee bank with the endorsements "Funds Insufficient", "Account Blocked" and "Account Closed". In respect of cheque No.013442, the cheque was initially dishonoured upon its presentation and on the request of petitioner No.2, was presented again, but was once again returned unpaid.

Thereafter, separate statutory demand notices were issued in respect of each dishonoured cheque through registered post, courier and, wherever applicable, by e-mail. As the petitioners allegedly failed to make payment of the cheque amounts within the prescribed statutory period despite receipt or deemed service of the notices, four separate complaints under Section 138 of the Negotiable Instruments Act came to be instituted before the learned S.D.J.M., Bhubaneswar, being I.C.C. Case Nos.929 of 2022, 2035 of 2022, 4155 of 2022 and 6069 of 2022. Upon consideration of the complaint petitions, the initial statements and the documents filed in support thereof, the learned Magistrate took cognizance of the alleged offence and issued process against the petitioners.

5. The petitioners in these petitions have contended that in the MoU at Clause-2.5(g), it is stipulated that the complainant is entitled to be paid the technical service fee of 1.8% of the total contract value in five instalments. First instalment of 0.9% of the estimated cost of Rs.29,54,700/- was only payable on issuance of LOA to the opposite party/complainant by UPPTCL with three instalments from out of the remaining four being payable @ 0.3% of the estimated cost i.e. Rs.9,84,900/- within three months from the payment of the first, second and third instalments respectively and towards the fifth instalment, after the award of the project work. The final award cost was to be finally computed and any further technical service fees payable was to be paid separately through a cheque to be issued after the completion of payments by SAG projects or within one month from the date of fourth instalment.

It is the case of the petitioners that Letter of Intent (LOI) was issued on 03.09.2021 by UPPTCL and immediately thereafter on 04.11.2021, 31.01.2022, 26.05.2022 and on 05.09.2022, the cheques were deposited and in the year 2022, the complaint cases were initiated. The Letter of Acceptance (LOA) was only issued by the UPPTCL on 22.03.2022. Therefore, the attempt made by the complainant to encash the cheque prior to issuance of LOA is in violation of the condition of MoU.

6. Mr. Panda, learned counsel appearing for the petitioners by extensively referring to the terms and conditions of the MoU, submitted that the complainant had prematurely deposited the cheques for encashment before its due dates. By drawing attention of this Court to Clause-2.5(g) of the MoU, he further contended that the complainant had fraudulently incorporated the particulars of the cheque in the MoU prior to the due dates. According to him, the relevant entries in the MoU were made in handwriting and were not authenticated by the signatures or countersignatures of both the parties. Therefore, he submitted that the prosecution lodged against his clients is vitiated because of the fraud committed by the complainant.

Mr. Panda, learned counsel further drawing the attention of this Court to the cognizance orders and the complaint petitions submitted that the accused persons are permanent residents of Aligarh, Uttar Pradesh. He contended that while taking cognizance of the offence under Section 138 of the N.I. Act, the learned trial Court failed to comply with the mandatory requirements of Sections 200 and 202 of Cr.P.C. He submitted that it was obligatory on the part of the Magistrate to defer the issuance of summons and enter into an enquiry contemplated under Section 202 of Cr.P.C. since the accused persons reside beyond the jurisdiction of the Court. In the absence of the mandatory procedural requirement followed by the learned trial Court, the cognizance order is bad in law. To substantiate his argument, he has relied upon the judgment of the Constitution Bench of the Hon'ble Supreme Court reported in ***(2021) 16 SCC 116*** in ***Suo Motu Writ Petition (Crl.) No.2 of 2020; In Re Expeditious Trial of Cases Under Section 138 of NI***

Act,1881. He has empathetically relied upon paragraphs-11, 12 and 24 of the said judgment, which read as under:-

> *"**11.** The learned Amici Curiae referred to a judgment of this Court in K.S. Joseph v. Philips Carbon Black Ltd. [K.S. Joseph v. Philips Carbon Black Ltd., (2016) 11 SCC 105 : (2016) 4 SCC (Civ) 616 : (2017) 1 SCC (Cri) 270] where there was a discussion about the requirement of inquiry under Section 202 of the Code in relation to complaints filed under Section 138 but the question of law was left open. In view of the judgments of this Court in Vijay Dhanuka [Vijay Dhanuka v. Najima Mamtaj, (2014) 14 SCC 638 : (2015) 1 SCC (Cri) 479] , Abhijit Pawar [Abhijit Pawar v. Hemant Madhukar Nimbalkar, (2017) 3 SCC 528 : (2017) 2 SCC (Cri) 192] and Birla Corpn. [Birla Corpn. Ltd. v. Adventz Investments & Holdings Ltd., (2019) 16 SCC 610 : (2020) 2 SCC (Civ) 713 : (2020) 2 SCC (Cri) 828] , the inquiry to be held by the Magistrate before issuance of summons to the accused residing outside the jurisdiction of the court cannot be dispensed with. The learned Amici Curiae recommended that the Magistrate should come to a conclusion after holding an inquiry that there are sufficient grounds to proceed against the accused. We are in agreement with the learned Amicus Curiae.*
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> ***12.** Another point that has been brought to our notice relates to the interpretation of Section 202(2) which stipulates that the Magistrate shall take evidence of the witness on oath in an inquiry conducted under Section 202(1) for the purpose of issuance of process. Section 145 of the Act provides that the evidence of the complainant may be given by him on affidavit, which shall be read in evidence in any inquiry, trial or other proceeding, notwithstanding anything contained in the Code. Section 145(2) of the Act enables the court to summon and examine any person giving evidence on affidavit as to the facts contained therein, on an application of the prosecution or the accused. It is contended by the learned Amicus Curiae that though there is no specific provision permitting the examination of witnesses on affidavit, Section 145 permits the complainant to be examined by way of an affidavit for the purpose of inquiry under Section 202. He suggested that Section 202(2) should be*

read along with Section 145 and in respect of complaints under Section 138, the examination of witnesses also should be permitted on affidavit. Only in exceptional cases, the Magistrate may examine the witnesses personally. Section 145 of the Act is an exception to Section 202 in respect of examination of the complainant by way of an affidavit. There is no specific provision in relation to examination of the witnesses also on affidavit in Section 145. It becomes clear that Section 145 had been inserted in the Act, with effect from the year 2003, with the laudable object of speeding up trials in complaints filed under Section 138. If the evidence of the complainant may be given by him on affidavit, there is no reason for insisting on the evidence of the witnesses to be taken on oath. On a holistic reading of Section 145 along with Section 202, we hold that Section 202(2) of the Code is inapplicable to complaints under Section 138 in respect of examination of witnesses on oath. The evidence of witnesses on behalf of the complainant shall be permitted on affidavit. If the Magistrate holds an inquiry himself, it is not compulsory that he should examine witnesses. In suitable cases, the Magistrate can examine documents for satisfaction as to the sufficiency of grounds for proceeding under Section 202.

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***24.** The upshot of the above discussion leads us to the following conclusions:*

***24.1.** The High Courts are requested to issue practice directions to the Magistrates to record reasons before converting trial of complaints under Section 138 of the Act from summary trial to summons trial.*

***24.2.** Inquiry shall be conducted on receipt of complaints under Section 138 of the Act to arrive at sufficient grounds to proceed against the accused, when such accused resides beyond the territorial jurisdiction of the court.*

24.3. For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.

***24.4.** We recommend that suitable amendments be made to the Act for provision of one trial against a person for multiple* *offences under Section 138 of the Act committed within a period of 12 months, notwithstanding the restriction in Section 219 of the Code.*

***24.5.** The High Courts are requested to issue practice directions to the trial courts to treat service of summons in one complaint under Section 138 forming part of a transaction, as deemed service in respect of all the complaints filed before the same court relating to dishonour of cheques issued as part of the said transaction.*

***24.6.** The judgments of this Court in Adalat Prasad [Adalat Prasad v. Rooplal Jindal, (2004) 7 SCC 338 : 2004 SCC (Cri) 1927] and Subramanium Sethuraman [Subramanium Sethuraman v. State of Maharashtra, (2004) 13 SCC 324 : 2005 SCC (Cri) 242] have interpreted the law correctly and we reiterate that there is no inherent power of trial courts to review or recall the issue of summons. This does not affect the power of the trial court under Section 322 of the Code to revisit the order of issue of process in case it is brought to the court's notice that it lacks jurisdiction to try the complaint.*

***24.7.** Section 258 of the Code is not applicable to complaints under Section 138 of the Act and findings to the contrary in Meters & Instruments [Meters & Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560 : (2018) 1 SCC (Civ) 405 : (2018) 1 SCC (Cri) 477] do not lay down correct law. To conclusively deal with this aspect, amendment to the Act empowering the trial courts to reconsider/recall summons in respect of complaints under Section 138 shall be considered by the Committee constituted by an order of this Court dated 10-3-2021 [Expeditious Trial of Cases Under Section 138 of NI Act 1881, In re, 2021 SCC OnLine SC 354] .*

***24.8.** All other points, which have been raised by the Amici Curiae in their preliminary report and written submissions and not considered herein, shall be the subject-matter of deliberation by the aforementioned Committee. Any other issue relating to expeditious disposal of complaints under Section 138 of the Act shall also be considered by the Committee.”*

7. In nutshell, Mr. Panda, learned counsel for the petitioners submitted that the complaint is liable to fail both on merits and on technical grounds as well. On merits, he contended that the cheques in question were presented before the due date of payable and the complainant with a fraudulent intention has initiated the present cases against the petitioners. He further submitted that, apart from the merits of the case, the complaint is also legally unsustainable as the mandatory procedure prescribed under the Code prior to issuance of process has not been complied with by the learned Magistrate. Hence, the order of cognizance is itself riddled with illegality.

8. On the other hand, Mr. Pangari, learned Senior Counsel appearing for the opposite party submitted that once the accused persons have admittedly issued the cheques in question, the statutory presumption under Section 139 read with Section 118 of the N.I. Act operates against the petitioners. According to him, such presumption, though rebuttable, can only be displaced by the accused during the course of trial by leading appropriate evidence. He contended that the grounds urged by the petitioners in the present petitions under Section 482 Cr.P.C. involve disputed questions of fact, cannot be adjudicated while exercising the inherent jurisdiction by this Court and that could only be threshed out in the trial. Therefore, as per his submission, this Court is forbidden to enter into merits of the case at this stage by scuttling the expected trial.

Mr. Pangari, learned Senior Counsel further submitted that the present petitions are pending since the year 2022/2023 and by virtue of the interim order dated 09.09.2022 and 04.08.2023, further proceedings in the complaint cases have remained stayed causing delay in the trial. He further submitted that under Section 143(3) of the N.I. Act, the statute mandates that the cases of the present nature needs to be concluded as expeditiously as possible preferably within a period of six months from the date of filing of the complaint. In support of his submissions, he has placed reliance upon the decisions of the Hon'ble Supreme Court in ***Manik B. vrs. Kadapala Sreyes Reddy and Another*****,** reported in ***2023 LiveLaw (SC) 642***, and ***Sri Om Sales v. Abhaya Kumar and Others*** reported in ***MANU/SC/1715/2025***. By specifically relying upon paragraphs 12 to 18 of the judgment in ***Sri Om Sales*** (supra), he submitted that the Hon'ble Supreme Court has held as follows:-

*"**12.** In the instant case, the complaint clearly spells out the necessary ingredients for commission of an offence punishable Under Section 138 of the N.I. Act. It is also alleged in the complaint that the cheque was issued in the discharge of liability qua goods supplied by the complainant. The cheque was brought on record along with the dishonor memo of the bank concerned which indicated that it was returned unpaid for insufficient funds in the drawer's account. The complaint also indicated that complainant had served notice of demand within the specified period and despite service of notice of demand, no payment was made. In such circumstances, the necessary ingredients of an offence punishable Under Section 138 of N.I. Act were disclosed by the complaint warranting issuance of process to the Accused (i.e., the first Respondent).*

***13.** However, the High Court, in its jurisdiction Under Section 482, proceeded to test whether the cheque was issued for the discharge, in whole or in part, of any debt or other liability. In our view, such an exercise was unwarranted because, Under Section 139 of the N.I. Act, there is a presumption that the holder of a cheque received the cheque of the nature referred to in Section 138 for the discharge, in whole or in part, of any debt or other liability. This presumption can be rebutted by evidence led in trial. A fortiori, the said issue can appropriately be decided either at the trial, or later, upon conclusion of trial, by the appellate/ revisional court.*

***14.** In Maruti Udyog Ltd. v. Narender and Ors. MANU/SC/0803/1999 : (1999) 1 SCC 113, this Court held that a presumption must be drawn that the holder of the cheque received the cheque of the nature referred to in Section 138, for the discharge of any debt or other liability unless the contrary is proved and, therefore, the High Court was not justified in entertaining and accepting the plea of the Accused at the initial stage of the proceedings and quash the complaint.*

***15.** Likewise, in Rangappa v. Sri Mohan MANU/SC/0376/2010 : 2010:INSC:289 : (2010) 11 SCC 441, it was held that the presumption mandated by Section 139 of the N.I. Act includes the existence of a legally enforceable debt or liability. It was observed that such a presumption is rebuttable, and the Accused must raise its defense in the trial.*

***16.** In Rajeshbhai Muljibhai Patel v. State of Gujarat MANU/SC/0155/2020 : 2020:INSC:160 : (2020) 3 SCC 794, it* *was held that the High Court should not quash the criminal complaint Under Section 138 of N.I. Act by going into disputed questions of fact regarding the cheque in question being issued for the discharge of debt or liability. Moreso, when Section 139 of the N.I. Act raises a statutory presumption as regards the cheque being issued for discharge of debt or liability.*

***17.** In Rathish Babu Unnikrishnan v. State (NCT of Delhi) MANU/SC/0542/2022 : 2022:INSC:480 : (2022) 20 SCC 661, this Court held that when there is a legal presumption Under Section 139 of N.I. Act, it would not be judicious to carry out a detailed enquiry on a disputed question of fact at a pre-trial stage to quash the complaint. The relevant observations in the judgment are extracted below:*

> ***17.** The proposition of law as set out above makes it abundantly clear that the court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. What is also of note is that the factual defense without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.*
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> ***18.** The consequences of scuttling the criminal process at a pretrial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial court is ousted from weighing the material evidence. If this is allowed, the Accused may be given an unmerited advantage in the criminal process. Also, because of the legal presumption, when the cheque and the signature are not disputed by the Appellant, the balance of convenience at this stage is in favor of the complainant/prosecution, as the Accused will have the opportunity to adduce defense evidence during the trial, to rebut the presumption.*

> ***19.*** *Situated thus, to non-suit the complainant, at the stage of the summoning order, when the factual controversy is yet to be canvassed and considered by the trial court will not in our opinion be judicious. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited.*

18. *Having regard to the aforesaid decisions of this Court as also the provisions of Section 139 of the N.I. Act, we are of the considered view that the High Court committed an error by conducting a roving enquiry, at the pre-trial stage, as regards the cheque being issued for the discharge of debt or liability. Such an exercise, in our view, was not merited in exercise of power Under Section 482 of the Code more so when the complaint allegations disclosed that the cheque was issued for discharge of liability. As fulfillment of the necessary ingredients of Section 138 N.I. Act are prima facie made out from the complaint allegations, in our view, neither the summoning order nor the complaint could have been quashed by the High Court at the pre-trial stage."*

9. I have carefully perused the materials available on record, including the documents placed by both the parties, and have considered the rival submissions advanced by the learned counsel appearing for the respective parties. The first contention of Mr. Panda, learned counsel for the petitioners was regarding the non-compliance with the mandatory procedural requirements contemplated under Sections 200 and 202 of the Cr.P.C. In order to appreciate the aforesaid contention, it is apposite to refer to the order dated 18.02.2022 passed by the learned S.D.J.M., Bhubaneswar in I.C.C. Case No.929 of 2022 (in CRLMC No.2471 of 2022), whereby cognizance of the offence punishable under Section 138 of the Negotiable Instruments Act was taken. The order reads thus:-

> *"Perused the complaint, initial statement of the complainant on affidavit, original cheque, intimation slip, postal receipt, postal A.D. and the pleader notice. From the above documents, I am satisfied that prima facie of the offence U/s.138 of N.I. Act is well made out against the accused persons. Hence, cognizance of offence U/s. 138 of N.I. Act is taken."*

Reading of the above passage of the impugned order reveals that learned trial Court had, in fact, conducted the requisite inquiry before taking cognizance of the offence. The complainant was directed to adduce pre-summoning evidence, which was furnished by way of an affidavit. Besides the said affidavit, the learned trial Court has also taken note of the averments made in the complaint petition and statutory demand notice issued under Section 138(b) of the N.I. Act as well as other documents filed by the complainant in support thereof. It is also seen from the record that the complainant along with the complaint have filed the original dishonour of cheque, returning memos, statutory demand notice, copy of the MoU and other relevant doucments. The documents placed on record coupled with pre-summoning evidence adduced by the complainant by way of affidavit, which was relied upon by the trial Court while taking cognizance of the offence satisfies the procedural requirements contemplated under Section 200/202 of Cr.P.C. Therefore, the submission advanced by Mr. Panda, learned counsel for the petitioner, based on the Constitution Bench decision in ***Suo Motu Writ Petition (Crl.) No. 2 of 2020*** (supra) is misconceived on the facts of the present case. The Constitution Bench of the Hon'ble Supreme Court has categorically held that, at the stage of inquiry under Section 202 of the Code, it is open to the Magistrate either to conduct the inquiry himself or to direct an investigation. It is held that in suitable cases, the Magistrate can examine the documents for satisfaction as to the sufficiency of grounds for proceeding under Section 202 of Cr.P.C. The Magistrate in the instant case has exactly done the same thing. He has not only relied upon the pleadings but also taken into account the documents placed before him as well as the pre-summoning evidence lead by the complainant by way of affidavit. Therefore, the procedural requirement contemplated under Section 202 of the Cr.P.C. stands duly complied with. Hence, the contention raised by Mr. Panda, challenging the cognizance order on the ground of non-compliance of Section 202 of Cr.P.C. has no merit and liable to be rejected. In so far as the other points raised by Mr. Panda, on merits of the cases are concerned, the same also do not hold any water in view of the settled provision of law that once the cheque is admittedly issued by the accused and even after issuance of statutory notice under Section 138(b) of N.I. Act, the amount is not paid, the presumption under Section 139 read with Section 118 of N.I. Act operates. The petitioner being the accused is at liberty to revert the same by bringing adequate evidence in the trial.

In this context, the recent decision of the Hon'ble Supreme Court in ***Sanjabij Tari v. Kishore S. Borcar and Others***, reported in ***MANU/SC/1336/2025***, assumes significance. In the aforesaid decision, the Hon'ble Supreme Court emphasized the mandatory nature of the statutory presumptions under Sections 118 and 139 of the N.I. Act, and deprecated any approach inconsistent with the settled legal position governing prosecutions under Section 138 of the Act. In the present case, it is an admitted position that the statutory notice under Section 138(b) of the N.I. Act was duly issued and received by the petitioners. Despite receipt of the notice, the petitioners neither replied to the same nor complied with the demand made therein by making payment of the cheque amount. Therefore, the statutory presumption under Sections 118 and 139 of the N.I. Act operates against them. The relevant observations of the Hon'ble Supreme Court in ***Sanjabij Tari*** (supra), particularly paragraphs 15 to 18 thereof, reinforce the aforesaid legal position, which reads as under:-

> *"ONCE EXECUTION OF CHEQUE IS ADMITTED, PRESUMPTIONS UNDER SECTIONS 118 AND 139 OF THE NI ACT ARISE*
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> *15. In the present case, the cheque in question has admittedly been signed by the Respondent No.1-Accused . This Court is of the view that once the execution of the cheque is admitted, the presumption under Section 118 of the NI Act that the cheque in question was drawn for consideration and the presumption under Section 139 of the NI Act that the holder of the cheque received the said cheque in discharge of a legally enforceable debt or liability arises against the accused. It is pertinent to mention that observations to the contrary by a two Judges Bench in Krishna Janardhan Bhat vs. Dattatraya G. Hegde, (2008) 4 SCC 54 have been set aside by a three Judges Bench in Rangappa (supra).*
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> *16. This Court is further of the view that by creating this presumption, the law reinforces the reliability of cheques as a mode of payment in commercial transactions.*
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> *17. Needless to mention that the presumption contemplated under Section 139 of the NI Act, is a rebuttable presumption.*

However, the initial onus of proving that the cheque is not in discharge of any debt or other liability is on the accused/drawer of the cheque [See: Bir Singh vs. Mukesh Kumar, (2019) 4 SCC 197].

18. The judgment of this Court in APS Forex Services Private Limited (supra) relied upon by learned counsel for the Respondent No.1-Accused only says that presumption under Section 139 of the NI Act is rebuttable and when the same is rebutted, the onus would shift back to the complainant to prove his financial capacity, more particularly, when it is a case of giving loan by cash. This judgment nowhere states, as was sought to be contended by learned counsel for the Respondent No.1-Accused, that in cases of dishonour of cheques, in lieu of cash loans, the presumption under Section 139 of the NI Act does not arise."

10. On the face of the averments made in the complaint and the materials placed on record, this Court finds that the accused-petitioners have no escape except to face the trial and rebut the presumption operating against them. Mr. Pangari, learned Senior Counsel appearing for the opposite party, has also placed reliance on several decisions of the Hon'ble Supreme Court, including ***Maruti Udyog Ltd. v. Narender and Others, (1999) 1 SCC 113; Rangappa v. Sri Mohan, (2010) 11 SCC 441; Rajeshbhai Muljibhai Patel v. State of Gujarat, (2020) 3 SCC 794; and Rathish Babu Unnikrishnan v. State (NCT of Delhi), (2022) 20 SCC 661***, all of which reiterate the same settled principles. The decision in ***Sanjabij Tari*** (supra) has considered the aforesaid precedents and has also laid down guidelines to facilitate the expeditious disposal of cheque dishonour cases. It may not be necessary to elaborate all the issues raised by both the counsels which according to this Court are ancillary issue that could only be answered at the end of the trial. All the contentions of both the parties are, therefore, left open to be urged before the trial Court at the appropriate stage. This Court is not inclined to entertain the present petitions invoking its inherent jurisdiction under Section 482 of the Cr.P.C.. Though the jurisdiction under Section 482 Cr.P.C. is wide and inherent, it is equally well settled that the same is required to be exercised sparingly, with circumspection, and only in exceptional cases. The Hon'ble Supreme Court has reiterated the said principle in ***Sanjabij Tari*** (supra).

11. Accordingly, the CRLMCs stand dismissed. The learned trial Court is directed to proceed with the trial of the cases without further delay keeping in mind the provision of Section 143(3) of the N.I. Act.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack.
Dated the 30th July, 2026/ Swarna