IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CNR No: PHHC011049602023
2026:PHHC:108628

CRM-M-41156-2023 (O&M)

Rakesh Singh ... **Petitioner**

Versus

Jee Bala Jee @ Co. and another ...**Respondents**

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	04.08.2026
2	The date when the judgment is pronounced	10.08.2026
3	The date when the judgment is uploaded on the website	10.08.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Lochab, Advocate and
Mr. Madhav S. Mogha, Advocate
for the petitioner.

Mr. Alok Mittal, Advocate
for respondent No. 1.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

****

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 *(for short 'the Code')* for quashing Criminal Complaint bearing No.856 of 2018 dated 18.12.2018 titled as ***Jee Bala Jee & Co. v. Jiya Agro Pvt. Ltd. and others,*** filed under Section 138 of the Negotiable Instruments Act, 1881 *(for short, 'the N. I. Act')* as well as the

summoning order dated 10.05.2019 passed by the learned Judicial Magistrate First Class, Kapurthala and all consequential proceedings arising therefrom, qua the petitioner only.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the impugned complaint has been filed by respondent No.1/complainant alleging therein that it is a proprietorship concern engaged in the business of sale of rice. Accused No.1, namely Jiya Agro Private Limited, was carrying on business at New Delhi and the petitioner, who is arraigned as accused No. 2, along with accused Nos.3 and 4 were its Directors, actively participating in the day-to-day affairs and management of the company and having direct involvement in its business. It was alleged that in the course of business dealings between the complainant and the accused-company, rice was supplied by the complainant to the accused. Towards part payment of the amount legally due, the accused issued cheque No.258201 dated 24.07.2018 for a sum of ₹80,00,000/- drawn on Axis Bank Limited, Okhla Phase-I, New Delhi. The complainant presented the cheque for encashment through its banker, Kotak Mahindra Bank Limited, Kapurthala. However, the cheque was returned unpaid with the remarks "Account Closed". Thereafter, the complainant got issued a statutory legal notice dated 02.11.2018 through registered post calling upon the accused to make payment of the cheque amount within the stipulated period. Despite receipt of the legal notice, the accused failed to liquidate the outstanding liability, compelling the complainant to institute the impugned complaint.

3. After recording preliminary evidence and considering the material placed on record, the learned trial Court found sufficient grounds to proceed

against the accused persons and vide impugned order dated 10.05.2019 summoned them to face trial. Pursuant thereto, the petitioner appeared before the trial Court and was admitted to bail. Thereafter, the petitioner moved an application under Sections 258, 205 and 317 Cr.P.C. seeking stoppage of proceedings and permanent exemption, which came to be dismissed by the learned trial Court on 08.06.2022. The revision petition preferred thereagainst was subsequently withdrawn before the learned Additional Sessions Judge, Kapurthala on 07.07.2023 with liberty to avail appropriate remedy in accordance with law. The present petition has thereafter been filed seeking quashing of the complaint and the summoning order qua the petitioner.

4. It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in the present complaint and continuation of criminal proceedings against him would amount to abuse of the process of law. It is further argued that the petitioner was neither a Director nor a Managing Director nor an authorised signatory of accused-company at any point of time. Reliance has been placed upon the records obtained from the Ministry of Corporate Affairs to contend that the name of the petitioner does not figure as Director or authorised signatory of the company and, therefore, no vicarious liability can be fastened upon him under Section 141 of the N. I. Act. It has further been argued that the petitioner was not the signatory to the cheque in question and no legally enforceable liability can be attributed to him merely because he has been arrayed as an accused. It is also argued that the complaint does not disclose any specific averment explaining how and in what manner the petitioner was responsible for the conduct of the business of the company at the relevant time. In the absence of such foundational pleadings, the

summoning order deserves to be quashed. It has also been submitted that the cheque in question was issued merely as a security cheque and not towards discharge of any legally enforceable debt or liability. There are material inconsistencies in the complaint itself, including with regard to the return memo of the bank, thereby rendering the complaint inherently defective. The learned Magistrate failed to apply his judicial mind before issuing summons and mechanically summoned the petitioner. With these broad submissions, it is urged that the petition deserves to be allowed and the complaint as well as the summoning order including all consequential proceedings qua the petitioner are liable to be quashed.

5. Reply has been filed by respondent No. 1/complainant. It is argued by learned counsel for respondent No.1/complainant that the present petition is wholly misconceived and is liable to be dismissed. It has been argued that the petitioner has deliberately suppressed material facts from this Court. Learned counsel submits that the petitioner had earlier approached the Sessions Court twice seeking anticipatory bail in FIR No.19 dated 12.02.2019 registered under Sections 420, 406 and 120-B IPC arising out of the very same commercial transaction. The first anticipatory bail petition was dismissed as withdrawn, whereas the second was dismissed on merits. Thereafter, the petitioner approached this Court, where interim protection was granted initially but the petition was ultimately dismissed. The Special Leave Petition preferred before the Hon'ble Supreme Court was also dismissed. These facts have not been fairly disclosed by the petitioner. Learned counsel has further argued that although the petitioner now seeks to portray himself as a mere employee having no managerial role in the company, the record itself demonstrates

otherwise. Reliance has been placed upon an e-mail dated 17.10.2018, according to which the petitioner had claimed himself as Chairman of Jiya Agro Private Limited while corresponding with a purchaser of the rice supplied by the complainant. It is submitted that the said document prima facie establishes that the petitioner was actively managing the affairs of the company and was holding himself out as the person in control of its business, notwithstanding the absence of any formal designation in the MCA records. The petitioner is attempting to take advantage of the technicalities of the Companies Act by relying solely upon the MCA records, whereas the actual role performed by him in the affairs of the company is a matter requiring evidence during trial. Whether the petitioner was in charge of and responsible for the conduct of the business of the company at the relevant time is essentially a disputed question of fact which cannot be adjudicated in proceedings under Section 482 of the Code. No case for exercise of inherent jurisdiction by this Court is made out. Hence, it is urged that the petition deserves to be dismissed.

6. This Court has heard the rival submissions.

7. The principal defence projected by the petitioner is that he was neither a Director nor the authorised signatory of accused-company and that his name does not find mention in the records maintained by the Ministry of Corporate Affairs. The petitioner, therefore, seeks quashing of the complaint primarily on the basis of documents relied upon by him to establish that he did not occupy any formal position in the company. At the outset, it deserves to be noticed that the impugned complaint specifically alleges that accused Nos.2 to 4 were actively participating in the day-to-day affairs and management of

accused-company and were directly involved in its business activities. It is further alleged that all the accused were jointly responsible for the conduct of the business of the company and the issuance of the cheque in question. Thus, the complaint does contain the foundational averments regarding the responsibility of the accused persons in the affairs of the company. Whether such allegations ultimately stand proved is an altogether different matter, but at the stage of considering a petition under Section 482 of the Code *(which corresponds to Section 528 of BNSS)*, this Court is only required to examine whether the complaint, if taken at its face value, discloses the commission of an offence and whether continuation of proceedings would amount to abuse of the process of Court.

8. The argument of the petitioner that his name does not appear in the records of the Ministry of Corporate Affairs also does not persuade this Court to exercise its inherent jurisdiction. The liability contemplated under Section 141 of the N. I. Act is not confined only to persons holding a formal designation as Director or Managing Director. The provision extends to every person who, at the time the offence was committed, was in charge of and responsible for the conduct of the business of the company. Consequently, the mere absence of the petitioner's name from the statutory records of the company cannot, by itself, conclusively determine the issue of his liability when the complainant asserts otherwise and has placed material on record in support thereof. Significantly, respondent No.1 has specifically pleaded that during earlier proceedings arising out of the same commercial transaction, the petitioner himself had relied upon an e-mail correspondence dated 17.10.2018 wherein he described himself as the Chairman of Jiya Agro Private Limited

while communicating with the purchaser of the rice supplied by the complainant. According to respondent No.1, the said document clearly demonstrates that the petitioner was actively representing the company and dealing with its business affairs. The petitioner disputes the legal effect of the said document and continues to rely upon the corporate records to contend otherwise. Evidently, therefore, there are rival versions regarding the exact role performed by the petitioner in the affairs of the company. The appreciation of such competing factual assertions necessarily requires examination of documentary evidence and, if required, oral evidence during trial. Such disputed questions of fact cannot be satisfactorily adjudicated in proceedings under Section 482 of the Code merely on the basis of affidavits or rival pleadings.

9. The submission that the petitioner was merely an employee and had no concern whatsoever with the affairs of the company is equally a matter of defence. It is well settled that while exercising jurisdiction under Section 482 of the Code, the High Court does not undertake a meticulous appreciation of the defence sought to be projected by an accused nor does it embark upon a mini trial to determine the correctness of rival factual claims. The defence of the petitioner, howsoever plausible it may appear, is required to be established before the learned trial Court by leading appropriate evidence and cannot furnish a valid ground for quashing the complaint at its threshold.

10. Learned counsel for the petitioner has also argued that the cheque in question was merely a security cheque and, therefore, its dishonour would not attract the penal provisions of Section 138 of the N. I. Act. The said contention, at this stage, does not merit acceptance. The mere description of a

cheque as a 'security cheque' does not, by itself, take the transaction outside the ambit of Section 138 of the N. I. Act. Whether such cheque was issued only by way of security or towards discharge of an existing or legally enforceable liability and whether the underlying liability had crystallized on the date of its presentation are matters requiring evidence. In the present case, the complainant has specifically alleged that the cheque was issued towards part payment of the outstanding liability arising out of the supply of rice and, upon its dishonour, the statutory notice was issued before instituting the complaint. These allegations cannot be discarded at this preliminary stage. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Sripati Singh (since deceased) through his Son Gaurav Singh v. State of Jharkhand and another, 2021 SCC OnLine SC 1002***, wherein it was held that a cheque issued as security cannot invariably be treated as a worthless piece of paper and that if the obligation for which such cheque was issued has matured and the cheque is presented towards discharge of the liability, its dishonour would attract the consequences envisaged under Section 138 of the N. I. Act. Therefore, the plea of the petitioner that the cheque was merely a security cheque raises a defence which can appropriately be examined only after the parties lead evidence before the learned trial Court and cannot constitute a ground for quashing the complaint in exercise of inherent jurisdiction. Likewise, the plea regarding alleged defects in the statutory notice, inconsistencies in the return memo or insufficiency of the allegations contained in the complaint also raises questions which are intrinsically linked with appreciation of evidence and the merits of the prosecution case. These are matters which appropriately fall within the domain of the trial Court and cannot be conclusively determined at this preliminary stage.

11. The contention that the learned Magistrate mechanically passed the summoning order is also devoid of merit. A perusal of the summoning order shows that the learned Magistrate, after considering the complaint, the preliminary evidence and the documents produced before it, found sufficient grounds to summon the accused persons. At the stage of summoning, the Magistrate is only required to ascertain whether a prima facie case is made out. A detailed discussion on the merits of the case or an elaborate appreciation of evidence is neither contemplated nor required.

12. It also cannot be ignored that respondent No.1 has brought on record the previous proceedings arising out of the same transaction, including the dismissal of the petitioner's successive anticipatory bail applications and the dismissal of the Special Leave Petition before the Hon'ble Supreme Court. Though the observations made in those proceedings cannot determine the guilt or innocence of the petitioner in the present complaint, they do indicate that the allegations against the petitioner have repeatedly been found to warrant adjudication in accordance with law and cannot be brushed aside at the threshold merely on the basis of the defence now sought to be projected by him. The inherent powers preserved under Section 482 of the Code are undoubtedly wide, but they are to be exercised sparingly, with circumspection and only in those rare cases where continuation of criminal proceedings would amount to abuse of the process of Court or where the allegations, even if accepted in their entirety, fail to disclose the commission of any offence. The present case does not fall within any of the well-recognised categories

warranting such extraordinary interference. On the contrary, the rival pleadings reveal serious disputed questions regarding the role of the petitioner in the affairs of accused-company, which cannot be adjudicated without permitting the parties to adduce evidence before the learned trial Court.

13. In view of the discussion as made above, this Court is of the considered view that the petitioner has failed to make out a case for exercise of inherent jurisdiction under Section 482 of the Code. The issues sought to be raised by him constitute matters of defence which are required to be examined by the trial Court after appreciation of the evidence that may be led by the parties. Interference at this stage would amount to stifling a legitimate prosecution and would be wholly contrary to the settled principles governing the exercise of inherent powers. Accordingly, finding no merit in the present petition, the same is hereby dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

10.08.2026 **(MANISHA BATRA)**
Waseem R. Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*