**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(276)

**CRM-M-7930-2024(O&M)
Reserved on: 04.08.2026
Pronounced on: 17.08.2026
Uploaded on: 17.08.2026**

Satpal Singh ...Petitioner

Versus

Rakesh Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Satbir Singh Gill, Advocate with
Ms. Pushpa, Mr. Riya, Mr. Navraj and
Mr. J.S.Kang, Advocate
for the petitioner.

Mr. Ishan Gupta, Advocate
for the respondent.

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VIRINDER AGGARWAL, J. (ORAL)

1. By way of the present petition preferred under Section 482 of the Code of Criminal Procedure, 1973 (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the petitioner seeks quashing of Complaint No. NACT-830-2020 dated 08.10.2020 instituted under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act"), the summoning order dated 08.10.2020, notice of accusation dated 01.08.2023, amended notice of accusation dated 26.09.2023 and all subsequent proceedings arising therefrom pending before the learned Judicial Magistrate First Class, Sangrur.

2. The facts, shorn of unnecessary details, are that the respondent-complainant claims to be carrying on business under the name and style of M/s Rakesh Trading Company. It is alleged that the petitioner, carrying on business under the trade name M/s Anmol Pesticides, had been purchasing pesticides,

seeds and other agricultural products from the complainant in the ordinary course of business. According to the complainant, a substantial amount became due and payable by the petitioner towards the outstanding business liability. In order to discharge the said liability, the petitioner is alleged to have issued cheque No.000153 dated 05.09.2020 drawn on HDFC Bank for a sum of ₹8,60,000/- in favour of the complainant. Upon presentation, the cheque was dishonoured with the remarks "Funds Insufficient". A statutory demand notice was thereafter issued, but despite service thereof, payment was not made within the prescribed period, compelling the respondent to institute the complaint under Section 138 of the Act. The learned trial Court, after considering the preliminary evidence adduced by the complainant, found sufficient grounds to proceed against the petitioner and accordingly passed the summoning order dated 08.10.2020. Subsequently, notice of accusation was served upon the petitioner, which later came to be amended by the learned trial Court.

CONTENTIONS

3. Aggrieved against the continuation of the aforesaid criminal proceedings, the petitioner has invoked the inherent jurisdiction of this Court primarily on a pure question of law. It is contended by the learned cousel for the petitioner that the cheque in question had admittedly been issued from the account of M/s Anmol Pesticides, whereas the complaint has been filed only against Satpal Singh in his individual capacity without impleading M/s Anmol Pesticides as an accused. It is submitted that in the absence of the firm being arrayed as an accused, the complaint itself is rendered legally non-maintainable and all consequential proceedings deserve to be quashed.

4. Elaborating the aforesaid submission, learned counsel for the petitioner has argued that the prosecution against the petitioner alone is contrary to the

law laid down by the Hon'ble Supreme Court in ***Aneeta Hada v. Godfather Travels & Tours (P) Ltd., 2012(5) SCC 661, Anil Gupta v. Star India Pvt. Ltd. 2014(10) SCC 373****, and* ***Himanshu v. B. Shivamurthy, 2019(3) SCC 797*** wherein it has consistently been held that where the principal offender has not been prosecuted, prosecution of the person sought to be made liable cannot be sustained. It is submitted that since the alleged drawer of the cheque, namely M/s Anmol Pesticides, has not been impleaded as an accused, the complaint itself is legally incompetent.

5. Per contra, learned counsel appearing on behalf of the respondent has opposed the petition and submitted that the entire challenge is founded upon an erroneous understanding of the legal status of a sole proprietary concern. It is contended that M/s Anmol Pesticides is neither a company nor a partnership firm or any other juristic entity having an existence independent of its proprietor, but is the proprietary concern of the petitioner himself. Thus, according to learned counsel, there is no legal requirement of separately impleading the proprietary concern when its proprietor, who is the person legally responsible for its affairs and the drawer of the cheque, is himself before the Court. In support of the aforesaid submission, reliance has been placed upon the judgments of the Hon'ble Supreme Court in ***Raghu Lakshminarayanan v. Fine Tubes, 2007(5) SCC 103, and Bijoy Kumar Moni v. Paresh Manna, 2026(5) SCC 380***, as also upon the judgments of this Court in ***M/s Advance Technological Products v. Kapil Gupta, 2024 NCPHHC 81655*** and ***Parvesh Kaur v. State of Punjab, 2022 SCC OnLine P&H 4065***. It is submitted that the aforesaid judgments make a clear distinction between a company or other juristic entity, on the one hand, and a sole proprietary concern, on the other, and consequently the principle laid down in ***Aneeta Hada v. Godfather Travels &***

Tours (P) Ltd., 2012(5) SCC 661 regarding the necessity of arraigning the principal offender cannot be mechanically applied to a sole proprietary concern.

<u>OBSERVATIONS AND FINDINGS</u>

6. I have heard learned counsel for the parties at considerable length and have carefully perused the paper-book as well as the judgments relied upon by both sides.

7. The controversy involved in the present petition lies within a narrow compass. The petitioner seeks quashing of the complaint primarily on the ground that the cheque in question was issued from the bank account of M/s Anmol Pesticides, whereas the said concern has not been separately arrayed as an accused. The respondent, on the other hand, contends that M/s Anmol Pesticides is merely the sole proprietary concern of the petitioner and, therefore, has no legal existence independence of him. Hence, the core issue which falls for consideration is as under:

> ***"Whether the principle requiring arraignment of the principal offender is equally applicable where the cheque has been issued by a sole proprietary concern and the prosecution has been launched only against its proprietor without separately impleading the proprietary concern as an accused?"***

8. Before considering the rival submissions on the applicability of the judgments relied upon by the parties, it would be appropriate to first examine the statutory scheme of Section 141 of the Negotiable Instruments Act, 1881, since the controversy raised in the present petition essentially turns upon the applicability of the said provision.

9. Section 138 of the Act creates an offence in respect of dishonour of a cheque issued towards discharge, wholly or partly, of a legally enforceable debt

or liability. The liability contemplated under Section 138 is ordinarily the liability of the drawer of the cheque. However, Section 141 deals with a specific situation where the offence under Section 138 is committed by a company. It provides that every person who, at the time when the offence was committed, was in charge of and was responsible to the company for the conduct of its business shall be deemed to be guilty of the offence, subject to the statutory conditions contained therein. Section 141 thus creates a statutory mechanism for fastening vicarious criminal liability upon persons other than the principal offender. Ordinarily, criminal liability is personal and one person is not criminally liable merely because another person has committed an offence. Section 141 constitutes a statutory exception to that general principle.

10. The liability of the persons covered by Section 141 arises because of their relationship with the entity which has committed the offence and their responsibility for the conduct of its business. It is, therefore, necessary, before invoking the principles relating to prosecution under Section 141, to ascertain the legal character of the entity which is alleged to have committed the offence. The requirement of arraigning the principal offender assumes significance where the principal offender is a legal entity distinct from the natural person sought to be made liable. The question whether such requirement arises in the present case cannot, therefore, be answered merely by looking at the name appearing on the cheque. The legal status of the concern issuing the cheque has first to be determined.

11. The Explanation to Section 141 expressly provides that for the purposes of the said section, “company” means any body corporate and includes a firm or other association of individuals. Thus, the expression “company” as employed in Section 141 is wider than the expression ordinarily

understood in company law. It encompasses not only a body corporate but also a firm or other association of individuals. A company, in its legal sense, is a juristic person having an identity distinct from the individuals who constitute or manage it. It can own property, incur liabilities, enter into contracts and, subject to the provisions of law, can itself be prosecuted for an offence. Its directors or other persons in charge of its affairs are separate natural persons, and their liability under Section 141 is a statutory vicarious liability arising from their position and responsibility in relation to the company.

12. Further, the expression "firm" appearing in the Explanation to Section 141 has also to be understood in its proper context. A partnership firm is an association of two or more persons who have agreed to carry on business in accordance with their partnership relationship. Although a partnership firm does not possess the seprate juristic personality as is the company, the Legislature has expressly included a firm within the expanded meaning of "company" for the purposes of Section 141. "Firm" appearing in the explanation has to be taken in the context in which it is used in that provision, as "firm" is followed by the words "other association of individuals". These words show that a firm which is considered a company within the meaning of Section 141 of the NI Act has to be an association of individuals, which cannot be a proprietary concern where the owner of the firm is only one individual, whereas a partnership firm is an association of individuals which is covered in that explanation. Consequently, where the drawer is a partnership firm, the statutory provisions governing vicarious liability may operate against the persons who were in charge of and responsible for the conduct of its business, subject to the requirements of Section 141.

13. However, a sole proprietary concern stands on an entirely different footing from a company, a partnership firm or an association of individuals. A sole proprietorship is not an association of persons and there is no plurality of individuals behind the business. It is owned and carried on by one individual alone, who carries on the business under a particular trade or business name. The name adopted for carrying on such business is merely a trade name or business nomenclature and does not, by itself, create or bring into existence a separate legal person or involvement of any other individual. Thus, where an individual carries on business under the name and style of a proprietary concern, there are not two persons in the eye of law, one being the proprietor and the other being the proprietary concern. The proprietor and the proprietary concern are, in law, one and the same person. The concern has no independent existence apart from its proprietor; it cannot have rights, incur liabilities or bear criminal responsibility independently of the individual who owns it. The liabilities arising from the business are, therefore, the liabilities of the proprietor himself.

14. This distinction is of particular significance in the context of Section 141 of the Negotiable Instruments Act. The provision proceeds on the existence of an entity or association which is capable of being treated as the principal offender, while the persons who are in charge of and responsible for the conduct of its business may, subject to the statutory conditions, be made vicariously liable. In the case of a company, the company is a legal person distinct from its directors and officers. Likewise, in the case of a partnership firm or an association of individuals, there are persons other than the particular individual who may be sought to be made liable by virtue of their relationship with, and responsibility for, the business of the entity or association. A sole proprietorship

presents no such distinction. There is no separate juristic person or association on one side and the proprietor on the other. There is only the proprietor, who conducts the business under the chosen trade name and is himself the person behind all its rights, obligations and liabilities.

15. Consequently, the concept of vicarious liability under Section 141 has to be understood differently in the case of a sole proprietary concern. It is this fundamental distinction between a proprietary concern, on the one hand, and a company, partnership firm or other association of individuals, on the other, which assumes significance while examining the petitioner's reliance upon the requirement of arraignment of the principal offender.

16. The Hon'ble Supreme Court in ***Raghu Lakshminarayanan v. Fine Tubes, (2007) 5 SCC 103***, has recognised this essential distinction between a proprietary concern and a company. A proprietary concern does not possess an existence independent of its proprietor and cannot be treated as a juristic person separate from him. Therefore, merely because the business is carried on under a particular name, or because a bank account is maintained in that name, the concern does not acquire an independent legal personality. The nomenclature of the business cannot alter its legal character.

17. It is against this legal backdrop that the judgment of the Constitution Bench in ***Aneeta Hada (Supra)*** has to be considered. The principle laid down therein regarding the necessity of arraigning the principal offender cannot be divorced from the nature of the principal offender involved in that case. Where the principal offender is a company, it is a separate juristic person and the persons sought to be prosecuted are sought to be made vicariously liable for its acts under Section 141. The company, therefore, has to be before the Court.

That reasoning necessarily presupposes the existence of more than one individual who are in charge of and responsible for the affairs of the firm.

18. Applying the aforesaid principles and distinction to the present case, the record describes the petitioner as Satpal Singh, Proprietor of M/s Anmol Pesticides. The notice of accusation also describes him as "Satpal Singh son of Krishan Singh, Prop. Anmol Pesticides". There is no material on record to establish that M/s Anmol Pesticides is a company, a partnership firm or an association of individuals. There is, in particular, no material suggesting the existence of any partner or any plurality of persons carrying on the business. Thus, on the material available before this Court, M/s Anmol Pesticides is a sole proprietary concern of the petitioner. The mere fact that the cheque was drawn on a bank account maintained in the name of M/s Anmol Pesticides does not alter its legal character. The trade name appearing on the cheque cannot, by itself, confer an independent juristic personality upon the concern.

19. Once M/s Anmol Pesticides is found to be a sole proprietary concern, the very foundation of the petitioner's objection disappears. The petitioner is not being prosecuted as a person vicariously liable for an offence committed by a separate juristic entity. He is being prosecuted as the proprietor of the concern which issued the cheque. The case, therefore, does not attract the principle requiring separate arraignment of the principal offender under Section 141 of the Act, as contemplated by the Constitution Bench in ***Aneeta Hada (supra)***. The objection that the complaint is not maintainable merely because M/s Anmol Pesticides has not been separately arrayed as an accused is, therefore, without merit. To accept the same would amount to treating a sole proprietary concern as an entity having an association of individuals. The sine qua non of the explanation to Section 141 of the NI Act is an entity which is an association of

individuals, which can be true to company or a partnership firm, but not to a proprietary concern.

20. Therefore, the core issue framed for consideration is answered against the petitioner. The absence of separate arraignment of M/s Anmol Pesticides does not render the complaint under Section 138 of the Act non-maintainable where the concern is a sole proprietorship and its proprietor is himself before the Court.

21. It is true that the inherent jurisdiction under Section 482 Cr.P.C. is extraordinary and is to be exercised sparingly. The mere existence of a remedy before the trial Court ordinarily constitutes a circumstance against interference. The principles laid down by the Hon'ble Supreme Court in the landmark judgment of ***State of Haryana & Ors. v. Ch. Bhajan Lal & Ors., 1991 (1) RCR(Criminal) 383*** has laid down as following:

> *"107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> > *1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted*

in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the

> > *concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
> >
> > *7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*
>
> *108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice."*

22. In ***M/s. Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401***, the 3-Judge Bench of Hon'ble Supreme Court reiterated the above principles and elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by Apex Court in ***R.P. Kapur v. State of Punjab AIR***

1960 SC 866 and ***State of Haryana and others v. Bhajan Lal (supra)***, the Court would have jurisdiction to quash the FIR/complaint.

23. Therefore, The present case does not fall within either category. The complaint discloses the necessary foundational allegations regarding the cheque, its dishonour and the failure to make payment pursuant to the statutory notice. The learned trial Court thereafter proceeded to summon the petitioner and has already served notice of accusation upon him. The only legal ground urged before this Court, namely, that the complaint is vitiated because M/s Anmol Pesticides was not separately arrayed as an accused, is consequently rejected. The premise underlying the objection that the proprietary concern is a legal person distinct from its proprietori, is not sustainable.

24. Consequently, this Court finds no abuse of the process of law or any exceptional circumstance warranting interference in exercise of its inherent jurisdiction under Section 482 Cr.P.C. The complaint and the consequential proceedings are liable to continue in accordance with law.

25. Accordingly, the present petition is **dismissed**. Consequently, Complaint No. NACT-830-2020 dated 08.10.2020, the summoning order dated 08.10.2020, the notice of accusation dated 01.08.2023, the amended notice of accusation dated 26.09.2023 and all consequential proceedings pending before the learned trial Court are upheld. The interim order dated 28.02.2024, whereby further proceedings before the learned trial Court were stayed, shall stand vacated. The learned trial Court shall proceed with the matter in accordance with law and shall not be influenced by any observation made herein on the merits of the underlying transaction or the defence of the petitioner.

26. It is clarified that the observations made herein are confined to the legal question regarding the necessity of separately arraigning the proprietary

concern and shall not be construed as an expression of opinion on the guilt or innocence of the petitioner. All questions relating to the existence of legally enforceable debt or liability, issuance and nature of the cheque, statutory presumptions and the defence raised by the petitioner shall remain open for adjudication by the learned trial Court in accordance with law.

27. Pending miscellaneous application(s), if any, shall also stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

17.08.2026
S. Pathania

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*