2026:PHHC:117280

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CRM-M-15587-2020 (O&M)

JIWAN KUMAR BANSAL AND OTHERS
...PETITIONERS
VERSUS
PARAMJIT SINGH SIDHU AND ANOTHER
...RESPONDENTS

CRM-M-16470-2020 (O&M)

JIWAN KUMAR BANSAL AND OTHERS
...PETITIONERS
VERSUS
KRISHNA DEVI AND ANOTHER
...RESPONDENTS

CRM-M-15865-2021 (O&M)

JIWAN KUMAR BANSAL AND OTHERS
...PETITIONERS
VERSUS

PARAMJIT SINGH SIDHU AND ANOTHER
...RESPONDENTS

1	The date when the judgment was reserved	04.08.2026
2	The date when the judgment is pronounced	24.08.2026
3	The date when the judgment is uploaded on the website	24.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Argued by: Mr. Aman Bansal, Advocate,
Mr. Anjali Bansal, Advocate,
Mr. Bhavna Aggarwal, Advocate and
Mr. Raghav Gupta, Advocate
for the petitioners in all three petitions.

None for respondent No.1 and 2 in all three petitions.

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Shalini Singh Nagpal, J.

1. Three petitions under Section 482 Cr.P.C. have been filed for quashing of three separate complaints under Section 138 of Negotiable

Instruments Act, 1881 bearing No.NACT/402/2019 dated 18.11.2019, COMA/4162/2019 dated 03.12.2019 and COMA/653/2020 dated 12.02.2020 and summoning orders dated 11.12.2019, 03.12.2019 and 18.12.2020. Common questions being involved in all three petitions, they are taken up together for decision by this common order. Reference to the facts is made from petition bearing No. CRM-M-15865-2021.

2. Learned counsel for the petitioners submits that respondent No.1 had invested sum of money with M/s M & B Infra Ltd. to buy share in land but later, decided not to make the purchase. A settlement agreement was arrived at between the company and respondent No.1. Respondent No.1 agreed to receive total sum of ₹5,00,000/- for which one cheque of ₹2,00,000/- and another of ₹50,000/- was made over to respondent No.1. ₹2,50,000/- was given in cash at the time of agreement on 16.03.2019. The cheques were encashed. Respondent No.1, however, served legal notice on the petitioners alleging that they issued cheque of ₹7,00,000/- of savings account of respondent No.2-Ved Parkash, which was dishonoured. In that regard, a police complaint was also filed by respondent No.1, during the course of which it transpired that respondent no.1 had given ₹4,00,000/- to respondent No.2 on interest, as loan, in individual capacity. The police closed the complaint. It so happened that upon settlement of the dispute with the Company, respondent No.2-Ved Parkash, gave another cheque of ₹7,00,000/- to respondent No.1. Petitioners sent reply to the legal notice sent by respondent No.1. Thereafter, a false and frivolous complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act') was filed before learned Chief Judicial Magistrate, Bathinda for dishonour of cheque of ₹7,00,000/-. Thereafter, petitioners received summons

from the Court of learned Judicial Magistrate Ist Class, Bathinda in a complaint, wherein summoning order dated 03.12.2019 was passed. It is argued that respondent No.1 had already settled his dispute with the company vide agreement dated 16.03.2019 and also received ₹2,50,000/- by way of two cheques besides ₹2,50,000/- in cash. Petitioners had no liability of any kind towards respondent No.1 and the complaint was not sustainable against them as the cheque in question was issued by respondent No.2 from his personal savings account. Neither M/s M & B Infra Ltd. company nor other Directors of the company had any concern with the cheque as the dispute was only between respondents No.1 and 2. It is submitted that complaint COMA/653/2020 as well as the summoning order dated 18.12.2020 deserved to be quashed.

3. None has put in appearance on behalf of respondents No.2 and 3 in all three petitions despite service.

4. Record perused. Respondent No.1-Paramjit Singh filed a complaint (COMA/653/2020 dated 12.02.2020) under Section 138 of the NI Act against M/s M & B Infra Ltd. and its Directors, including respondent No.2-Ved Parkash alleging that M/s M & B Infra Ltd. was a chit-fund company and other accused were Directors of the company, running its business; that Anuj Bansal and Abhishek Bansal approached him in the year 2013 and induced him to deposit ₹6,00,000/- assuring good returns, interest and also gave security of 2000 square yards plot. At the time of maturity of scheme, petitioners-Jiwan Bansal, Anuj Bansal, Abhishek Bansal and Ved Parkash issued cheque No.802327 dated 22.09.2019, drawn on Oriental Bank of Commerce, Railway Road Branch, Bathinda for ₹7,00,000/- from saving account of respondent No.2-Ved Parkash, Director/ Authorized Person of M/s

M & B Infra Ltd. in the name of the complainant assuring that the cheque would be honoured upon presentation. The cheque was presented by respondent No.1 to the bank for encashment in his account but was returned back with the remarks *'Funds Insufficient'* on 11.10.2019. Respondent No.1 further alleged that the accused, fraudulently issued cheque from savings account of third-party and not from the company account and all of them were, in connivance with each other, thus liable under Section 138 of the NI Act and Section 420 IPC. Legal Notice dated 21.01.2020 (Annexure P-6) was issued to the accused calling upon them to make payment of ₹7,00,000/- within 15 days of receipt of legal notice but when accused failed to make payment within the stipulated period, the complaint was filed.

5. Legal notice sent by respondent No.1 to the petitioners on 21.01.2020 is on record as also the reply to the legal notice filed by one of the petitioners namely Jeewan Bansal. In the reply, petitioner/accused-Jeewan Bansal asserted that full and final settlement agreement was executed between the parties on 16.03.2019 vide which a sum of ₹5,00,000/- was paid by the company including ₹2,50,000/- by way of cheques and another ₹2,50,000/- by way of cash and there were no dues against the company. It was further asserted that respondent No.1 made an individual bargain with respondent No.2-Ved Parkash in his individual capacity and got a cheque of ₹7,00,000/- duly signed by respondent No.2-Ved Parkash drawn on his personal savings account in Oriental Bank of Commerce, Railway Road Branch, Bathinda. Neither the company nor petitioner/accused-Jeewan Kumar had any concern with the individual transaction.

6. Preliminary evidence was led before learned Judicial Magistrate Ist Class, Bathinda in the shape of affidavit of complainant/respondent No.1-

Ex.CW1/A and documentary evidence, Ex.C1 to C28. The Court found sufficient grounds to proceed against the accused (petitioners) under Section 138 of the NI Act and summoned them to face trial vide order dated 18.12.2020.

7. In the connected case vide CRM-M-15587-2020 (O&M) also, petitioners including the company M/s M & B Infra Ltd. and its 06 Directors have been summoned in the criminal complaint relating to dishonour of cheque No.802327 dated 22.09.2019 drawn by respondent No.2 Ved Parkash from his personal savings account in Oriental Bank of Commerce, Railway Road Branch, Bathinda in favour of respondent No.1-Paramjit Singh.

8. Same is the position in CRM-M-16470-2020. Petitioners therein are 04 Directors of M/s M & B Infra Ltd., who have been summoned in respect of dishonour of four cheques of ₹50,000/- each issued by respondent No.2-Ved Parkash from his personal account in Oriental Bank of Commerce, Railway Road Branch, Bathinda in favour of respondent No.1-Krishna Devi.

9. In CRM-M-15587-2020 (O&M) and CRM-M-15865-2021 (O&M), the plea is that entire monetary dispute between the Company-M/s M & B Infra Ltd., its Directors and respondent No.1 was settled and payments were made to respondent No.1. Whether or not, by virtue of an agreement executed between the company and respondent No.1-Paramjit Singh Sidhu, all disputes were settled finally between the company and respondent No.1, cannot be adjudicated in these proceedings being essentially, disputed questions of fact. The core issue for determination in all the three petitions is whether the Company-M/s M & B Infra Ltd. and its other Directors can be prosecuted in complaints under Section 138 of the Negotiable Instruments

Act, 1881, which relate to cheques issued by one of the Directors, from his personal account.

10. In all the three complaints in respect of which the petitions for quashing are filed, cheques detailed hereinbelow have been issued by respondent No.2-Ved Parkash from his personal savings bank account:

Case No. (High Court)	**Complaint No.**	**Complaint Title**	**Cheque No. and issued in favour of**	**Savings Bank Account No.**	**Amount**
CRM-M-15587-2020	COMA-4162-2019 dated 03.12.2019	Paramjit Singh Sidhu Vs. M/s M & B Infra Ltd. Etc.	802327 dated 22.09.2019 **In favour of Paramjit Singh Sidhu**	075321910022651 in Oriental Bank of Commerce, Railway Road Branch, Bathinda	₹7,00,000/-
CRM-M-16470-2020	NACT-402-2019 dated 18.11.2019	Krishna Devi Vs. M/s M & B Infra Ltd. Etc.	802334, 802335, 802336 & 802337 dated 23.09.2019 **In favour of Krishna Devi**	07532191022651 in Oriental Bank of Commerce, Railway Road Branch, Bathinda	₹50,000 each (50000 X 4) = ₹2,00,000/-
CRM-M-15865-2021	COMA-653-2020 dated 12.02.2020	Paramjit Singh Sidhu Vs. M/s M & B Infra Ltd. Etc.	071720 dated 15.01.2020 **In favour of Paramjit Singh Sidhu**	0050000102048655 in Punjab National Bank, Bank Street, Bathinda	₹7,00,000/-

11. As per paragraph (xi) of the Statement of Objects and Reasons of the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, the legislative intent behind the introduction of Chapter XVII of the NI Act, which consists of Sections 138 to 147 of the said Act is as follows:

"(xi) to enhance the acceptability of cheques in settlement of liabilities by making the drawer liable for penalties in case of bouncing of cheques due to insufficiency of funds in the accounts or for the

reason that it exceeds the arrangements made by the drawer, with adequate safeguards to prevent harassment of honest drawers."

12. Section 138 of the NI Act reads as under:

*"**138. Dishonour of cheque for insufficiency, etc., of funds in the account.**—Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both:*

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice; in writing, to the drawer of the cheque,

within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.—For the purposes of this section, "debt of other liability" means a legally enforceable debt or other liability."

13. Ingredients required to make out a case under Section 138 of the NI Act as explained by Hon'ble Supreme Court in ***Kusum Ingots & Alloys Ltd. Vs. Pennar Peterson Securities Ltd. and Others (2000) 2 SCC 745*** are as under:

"10. On a reading of the provisions of Section 138 of the NI Act it is clear that the ingredients which are to be satisfied for making out a case under the provision are:

(i) a person must have drawn a cheque on an account maintained by him in a bank for payment of a certain amount of money to another person from out of that account for the discharge of any debt or other liability;

(ii) that cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(iii) that cheque is returned by the bank unpaid, either because the amount of money standing to the credit of the account is insufficient to honour the cheque or that it exceeds the amount

arranged to be paid from that account by an agreement made with the bank;

(iv) the payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within 15 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

(v) the drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice."

14. The cheques in question as illustrated in the table above have all been signed by respondent No.2-Ved Parkash in his personal capacity on individual account maintained by him with Oriental Bank of Commerce, Railway Road Branch, Bathinda and Punjab National Bank, Bank Street, Bathinda.

15. Section 7 of the NI Act defines drawer and drawee as below:

*" '**Drawer' 'Drawee'.**—The maker of a bill of exchange or cheque is called the 'drawer'; the person thereby directed to pay is called the 'drawee'."*

16. Sections 30 and 31 of the NI Act further defines the liability of drawer and drawee of cheque as follows:

***"30. Liability of drawer.**—The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.*

> ***31. Liability of drawee of cheque.****—The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and , in default of such payment, must compensate the drawer for any loss or damage caused by such default."*

17. Proviso (b) to Section 138 of the NI Act provides that the payee or the holder in due course of the cheque, as the case may be, must make a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid. Proviso (c) provides that if the drawer of such cheque makes the payment of the said amount of money to the payee or as the case may be, to the holder in due course of the cheque within fifteen days of the receipt of the said notice, then he cannot be held liable under Section 138 of the NI Act.

18. Thus, there can be no quarrel that the proposition that it is only the **"drawer"** of the cheque who can be held liable under Section 138 of the NI Act.

19. Hon'ble Supreme Court of India in ***P.J. Agro Tech Limited and Others Vs. Water Base Limited (2010) 12 SCC 146*** , clarified whether a person, who was not the drawer of the cheque upon an account maintained by him can be held to liable for an offence under Section 138 of the NI Act. The Court observed as under:

> *"7. From the submissions made on behalf of the respective parties, it is quite apparent that the short point for decision in this Appeal is whether a complaint under Section 138 of the 1881*

Act would be maintainable against a person who was not the drawer of the cheque from an account maintained by him, which ultimately came to be dishonoured on presentation.

8. XX XX XX XX

From a reading of the said Section, it is very clear that in order to attract the provisions thereof a cheque which is dishonoured will have to be drawn by a person on an account maintained by him with the banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part of any debt or other liability. It is only such a cheque which is dishonoured which would attract the provisions of Section 138 of the above Act against the drawer of the cheque.

9. In the instant case, the cheque which had been dishonoured may have been issued by the Respondent No.11 for discharging the dues of the Appellant No.1 Company and its Directors to the Respondent No.1 Company and the Respondent Company may have a good case against the Appellant No.1 Company for recovery of its dues before other fora, but it would not be sufficient to attract the provisions of Section 138 of the 1881 Act. ***The Appellant Company and its Directors cannot be made liable under Section 138 of the 1881 Act for a default committed by the Respondent No.11.*** *An action in respect of a criminal or a quasi-criminal provision has to be strictly construed in keeping with the provisions alleged to have been violated. The proceedings in such matters are in personam and* *cannot be used to foist an offence on some other person, who under the statute was not liable for the commission of such offence."*

20. Thus, it is clear from the statute itself that it is the drawer of cheque, who will be liable for an offence under Section 138 of the NI Act. No doubt, under Section 141 of the NI Act, certain other persons other than the drawer of the cheque can be made liable for the offence in case the offence is committed by a company and not an individual. However, it is not the case of the complainant/respondent No.1 that the cheque in question was drawn by respondent No.2 on a bank account of the company. Rather, it is clear enough that respondent No.2 had issued the cheque from his personal account.

21. In ***Mainuddin Abdul Sattar Shaikh Vs. Vijay D. Salvi 2015 (9) SCC 607***, the accused who was Managing Director of a company issued a cheque drawn in his personal account in discharge of the liability of his company. The cheque later came to be dishonoured and a private complaint was lodged against the accused under Section 138 of the NI Act. Both the Trial Court and the High Court acquitted the accused on the ground that the company was not made a party to the proceedings. However, Hon'ble Supreme Court set aside the order of the acquittal and held the accused liable under Section 138 of the NI Act. It was observed that an account maintained by him, the company or any of the Directors would not be liable for the offence even if the cheque was issued by the accused towards discharge of the debt of the company. The relevant observations of the Apex Court are as under:

"10. In the present case, it is an admitted fact that the drawer of the cheque was the respondent, who had drawn the cheque,

bearing No.075073 for Rs.74,200/- on a bank account maintained by him towards the refund of the booking amount. Therefore, he was the drawer of the cheque. The case of the appellant, apart from being supported by the provision of Section 138 of the NI Act, also gets buttressed by the judgment in ***P.J. Agro Tech Limited and Ors. Vs. Water Base Limited, (2010) 12 SCC 146*** *where this Court has dealt with the scope of Section 138 and held that it is very clear that in order to attract the provisions thereof a cheque which is dishonoured will have to be drawn by a person on an account maintained by him with the banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part of any debt or other liability. It is only such a cheque which is dishonoured which would attract the provisions of Section 138 of the above Act against the drawer of the cheque.*

11. About the liability under Section 138 of the NI Act, where the cheque drawn by the employee of the appellant company on his personal account, even if it be for discharging dues of the appellant-company and its Directors, the appellant-company and its Directors cannot be made liable under Section 138. Thus, we observe that in the abovementioned case, the personal liability was upheld and the Company and its Directors were absolved of the liability. The logic applied was that the Section itself makes the drawer liable and no other person. This Court in P.J. Agro Tech Limited (supra) noted as under:

"An action in respect of a criminal or a quasi-criminal provision has to be strictly construed in keeping with the provisions alleged to have been violated. The proceedings in such matters are in personam and cannot be used to foist an offence on some other person, who under the statute was not liable for the commission of such offence." *(Emphasis Supplied)*

Going by the strict interpretation of the provision the drawer which in the present case is the respondent is liable under Section 138 of the N.I. Act."

22. In all the three complaints filed by respondent No.1, the drawer of the cheque is respondent No.2. Therefore, he alone can be prosecuted under Section 138 of the NI Act. Even if it is assumed for discussion sake that the cheques which have been dishonoured in all three cases were in fact issued by respondent No.2 for discharging the dues of the company and other Directors, the mischief of Section 138 of the NI Act would not be attracted. Since, all the cheques have been drawn from personal savings account of respondent No.2, the company M/s M & B Infra Ltd. and its other Directors cannot be made liable under Section 138 of the NI Act for a default committed by respondent No.2-Ved Parkash.

23. The cheque in question having been drawn by respondent No.2 in his personal capacity on his bank, only he can be proceeded under Section 138 of the NI Act on dishonour of the cheque and proceedings against the company and other Directors would not be maintainable. Petitioners in all the cases, not being the drawer of the cheques in question, which was issued by respondent No.2-Ved Parkash from his personal account, could not, thus have been summoned by learned Judicial Magistrate Ist Class, Bathinda to face trial.

24. All three petitions i.e. CRM-M-15587-2020, CRM-M-16470-2020 and CRM-M-15865-2021 are allowed. Complaint against all the petitioners (NACT/402/2019 dated 18.11.2019, COMA/4162/2019 dated 03.12.2019 and COMA/653/2020 dated 12.02.2020) and summoning orders dated 11.12.2019, 03.12.2019 and 18.12.2020 against them are hereby quashed.

25. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

24.08.2026
HS.CHAUHAN

Whether Speaking/Reasoned : Yes
Whether Reportable : No