* IN THE HIGH COURT OF DELHI AT NEW DELHI

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\# **CNR No. DLHC010302232026**
\+ **CRL.M.C. 4889/2026 & CRL.M.A. 20486/2026**

RITU JAJU .....Petitioner
Through: Mr. Chirag Khurana, Adv.
versus
SARLA SARDA .....Respondent
Through: Mr. Abhishek Gupta, Adv.

\# **CNR No. DLHC010344512026**
\+ **CRL.M.C. 5493/2026 & CRL.M.A. 22922/2026**

NEERAJ JAJU .....Petitioner
Through: Mr. Chirag Khurana, Adv.
versus
SARLA SARDA .....Respondent
Through: Mr. Abhishek Gupta, Adv.

\# **CNR No. DLHC010346132026**
\+ **CRL.M.C. 5523/2026 & CRL.M.A. 23053/2026, CRL.M.A. 23054/2026**

NEERAJ JAJU .....Petitioner
Through: Mr. Chirag Khurana, Adv.
versus
SARLA SARDA .....Respondent
Through: Mr. Abhishek Gupta, Adv.

CORAM:
HON’BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present batch of petitions has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Article 227 of the

Constitution of India, seeking quashing of the summoning order dated 28.06.2025 passed by the learned Trial Court in **CC NI Act No. 610/2025**, which is the subject matter of **CRL.M.C. No. 4889/2026**, the summoning order dated **30.06.2025** passed in **CC NI Act No. 1889/2025**, challenged in **CRL.M.C. No. 5493/2026**, and the summoning order dated **30.06.2025** passed in **CC NI Act No. 1905/2025**, challenged in **CRL.M.C. No. 5523/2026**, along with all consequential proceedings arising therefrom. All the aforesaid complaints have been instituted by the respondent under Section 138 of the Negotiable Instruments Act, 1881, in respect of cheques issued pursuant to settlement arrangements entered into between the parties.

2. The present batch of petitions raises a common set of facts and arises out of disputes between the petitioners and the respondent, Smt. Sarla Sarda. Since the petitions arise from complaints instituted by the respondent under Section 138 of the Negotiable Instruments Act, 1881, and involve transactions emanating from settlement agreements executed between the parties, they are being considered together by way of a common judgment.

<u>BRIEF FACTS:</u>

3. The dispute has its genesis in the affairs of M/s Shree Narsingh Education Consulting Private Limited, in which the respondent and the petitioners were stated to be shareholders/directors. The respondent had initiated criminal proceedings in relation to the affairs of the said company, resulting in registration of FIR No. 41/2022 at Police Station EOW for offences under Sections 409/420/467/468/471/120-B IPC

against the petitioners and other family members. The respondent's complaints under Section 138 of the Negotiable Instruments Act have subsequently arisen from settlement arrangements entered into between the parties in connection with the disputes and proceedings arising from the said FIR. The record of the petition of Ritu Jaju also refers to the FIR as having been registered against her, her husband Neeraj Jaju and her son Anurav Jaju.

4. During the pendency of the criminal proceedings, the petitioners sought interim bail. In the case of Ritu Jaju, the record indicates that she was in custody and an application for interim bail was considered by the learned Sessions Court. The material placed on record also refers to the medical condition and care requirements of her daughter as one of the circumstances urged in support of the application.

5. In the course of the aforesaid proceedings, the parties entered into settlement arrangements. In respect of Ritu Jaju, a settlement agreement dated 12.06.2024 was executed between Ritu Jaju, her son Anurav Jaju and the respondent. Under the said arrangement, the parties recorded a settlement amount of Rs.2,00,00,000/- towards settlement of the claims of the respondent. The arrangement contemplated an initial payment of Rs.5,00,000/- and the balance amount through other specified modes, including post-dated cheques.

6. The settlement agreement concerning Ritu Jaju further contemplated that, in the event of default in payment of the settlement amount, the respondent would be entitled to pursue the pending proceedings and other remedies available in law. Four post-dated cheques of Rs.48,75,000/- each were stipulated to be issued in favour of

the respondent towards the settlement amount. The settlement also contained provisions concerning the proposed cooperation of the respondent in proceedings relating to the FIR and recorded that the other co-accused, including Neeraj Jaju, would enter into a separate arrangement after his release from custody.

7. Thereafter, a separate Memorandum of Settlement dated 31.07.2024 was executed between the respondent and Neeraj Jaju. The said MOU records that the parties agreed to mutually settle the disputes and differences arising from the pending criminal, civil and company law proceedings. These included proceedings arising out of FIR No.41/2022, a civil suit pending before this Court and proceedings before the National Company Law Tribunal.

8. Under the MOU dated 31.07.2024, Neeraj Jaju undertook to pay Rs.2,00,00,000/- to the respondent towards full and final settlement of the claims stated therein, with the payment to be made on or before 30.01,2025. The MOU also contemplated adjustment/payment of amounts lying with M/s Cholamandalam Investment and Finance Limited and referred to the respective shareholding of the parties in M/s Shree Narsingh Education Consulting Private Limited.

9. The said MOU further recorded that Neeraj Jaju would issue six post-dated cheques in favour of the respondent, comprising two cheques of Rs.50,00,000/- each, two cheques of Rs.25,00,000/- each and two cheques of Rs.22,50,000/- each, towards the settlement amount. The MOU provided for presentation of the cheques in the event of default in payment of the settlement amount, subject to the terms recorded therein.

10. The settlement arrangements also contained provisions concerning

the criminal proceedings arising out of FIR No.41/2022. In particular, the MOU dated 31.07.2024 contemplated cooperation by the respondent in proceedings for quashing of the FIR/charge-sheet upon fulfilment of the stipulated payment obligations. The MOU also provided that, in the event the FIR was not quashed, the settlement amount actually received by the respondent would be refunded within the period stipulated therein. The parties further recorded that the MOU had been drafted and negotiated by them and was executed voluntarily.

11. Subsequently, disputes arose between the parties concerning the implementation and effect of the aforesaid settlement arrangements. The petitioners contend that the respective MOU/settlement agreements were entered into under circumstances in which they did not have equal bargaining power and that the cheques were issued pursuant thereto. The respondent, on the other hand, relies upon the settlement agreements and the cheques issued thereunder as constituting the basis of her claims.

12. In respect of Ritu Jaju, the respondent instituted a complaint under Sections 138 and 142 of the Negotiable Instruments Act alleging dishonour of the cheques issued pursuant to the settlement dated 12.06.2024. The complaint states that the respondent had authorised her son, Akhil Sarda, through a Special Power of Attorney to institute and pursue the complaint. It further refers to the settlement dated 12.06.2024, the alleged payment of Rs.5,00,000/- and the issuance of four post-dated cheques towards the balance settlement amount.

13. In respect of Neeraj Jaju, the respondent instituted a separate complaint under Sections 138 and 142 of the Negotiable Instruments Act. The complaint alleges that Neeraj Jaju had entered into the

settlement dated 31.07.2024, agreed to pay Rs.2,00,00,000/- and issued six post-dated cheques towards the settlement amount. The complaint further states that the cheques were presented for encashment and were dishonoured, following which a statutory demand notice was issued to Neeraj Jaju.

14. The petitioners, prior to the passing of the respective summoning orders, placed their objections before the learned Trial Courts. In the case of Neeraj Jaju, a response was filed to the notice issued under Section 223 BNSS, wherein, *inter alia*, the petitioner disputed the existence of any personal liability towards the respondent and questioned the legally enforceable nature of the alleged liability. He also relied upon documents concerning the financial affairs of the company and disputed the basis of the alleged liability.

15. Similar objections were raised by Ritu Jaju. The material placed on record shows that she disputed the existence of a legally enforceable debt and contended that the cheques had been issued pursuant to the settlement arrangement. The petitioner's case before the Trial Court was that the relevant settlement arrangement did not disclose the basis of the alleged legally enforceable debt.

16. The learned Trial Courts thereafter proceeded to consider the complaints and the material placed on record. In the case of Ritu Jaju, the learned Trial Court passed the summoning order dated 28.06.2025 in CC NI Act No.610/2025, taking cognizance of the complaint under Section 138 of the Negotiable Instruments Act and directing issuance of process against the petitioner. The said order is under challenge in ***Crl.M.C. No.4889/2026.***

17. In the case of Neeraj Jaju, the learned Trial Court passed the summoning order dated 30.06.2025 in the complaint under Section 138 of the Negotiable Instruments Act. The Trial Court considered the complaint, the documents and the verification affidavit and proceeded on the basis that a *prima facie* case was made out against the petitioner. The petitioner was accordingly summoned. The said order is under challenge in ***Crl.M.C. No.5493/2026.***

18. Subsequently to the execution of the MOU dated 31.07.2024, Neeraj Jaju instituted a civil suit seeking, *inter alia*, declaration and cancellation of the said MOU, along with consequential reliefs. The suit was received and summons were directed to be issued to the respondent by order dated 21.01.2026.

19. Aggrieved by the respective orders taking cognizance and issuing summons in the complaints under Section 138 of the Negotiable Instruments Act, the petitioners have approached this Court under Section 528 of the BNSS, corresponding to Section 482 Cr.P.C., read with Article 227 of the Constitution of India, seeking quashing of the respective summoning orders and all consequential proceedings arising therefrom. The petition filed by Ritu Jaju challenges the summoning order dated 28.06.2025 in CC NI Act No.610/2025, while the petition filed by Neeraj Jaju challenges the summoning order dated 30.06.2025 in CC NI Act No.1889/2025.

SUBMISSIONS ON BEHALF OF THE PETITONERS:

20. Learned counsel for the petitioners submits that the present petitions arise out of complaints instituted by the respondent under

Section 138 of the Negotiable Instruments Act, 1881, wherein the alleged liability of the petitioners is founded upon the respective Memoranda of Understanding/Settlement Agreements executed between the parties. It is submitted that the very foundation of the complaints is an alleged liability which, according to the petitioners, was neither an existing nor a legally enforceable debt at the time of issuance of the cheques.

21. It is submitted that the MOU dated 31.07.2024, which forms the basis of the proceedings against Neeraj Jaju, itself contains provisions which demonstrate that the payment contemplated thereunder was intrinsically connected with the outcome of the criminal proceedings arising out of FIR No. 41/2022. Learned counsel submits that the MOU contemplated cooperation by the respondent for quashing of the FIR and further provided that, in the event the FIR was not quashed, the settlement amount actually received by the respondent was to be refunded. It is therefore contended that the liability sought to be enforced through the cheques was not an unconditional, existing and crystallised liability but was dependent upon the happening of a subsequent event. The petitioners submit that this aspect goes to the root of the alleged liability.

22. Learned counsel further submits that the respondent has not placed on record any statement of account, balance sheet, computation of damages or any other document demonstrating the manner in which the alleged liability of the petitioners was quantified. It is submitted that the MOU merely records an amount towards "full and final settlement" of the respondent's claims arising out of the various proceedings, without setting out any underlying transaction or crystallised monetary liability corresponding to the cheques in question. According to the petitioners, the

mere description of an amount as a “settlement amount” cannot, by itself, establish the existence of a legally enforceable debt.

23. It is further submitted that the MOU does not record that the cheques were being issued towards discharge of any pre-existing loss, debt or liability. Rather, the cheques were issued pursuant to the settlement arrangement and were to be presented in the eventuality of default in payment of the settlement amount. Learned counsel submits that the distinction between an existing liability and an amount payable under a settlement arrangement assumes significance in the present case, particularly when the settlement itself contained reciprocal obligations and contemplated consequences depending upon the outcome of the criminal proceedings.

24. Learned counsel submits that the respondent's claim of Rs.2,00,00,000/- under the MOU is also not relatable to any adjudicated or otherwise crystallised civil claim for damages. It is contended that although the MOU refers to the amount as being towards “full and final settlement” of the respondent's claims arising out of the cases mentioned therein, no determination of damages or liability is reflected in the document. Thus, according to the petitioners, the foundation of the alleged debt itself remains absent.

25. Learned counsel also draws attention to the surrounding circumstances in which the settlement arrangements were executed. It is submitted that the petitioners and their family members were facing criminal proceedings arising out of FIR No.41/2022 and were seeking bail. The petitioners contend that the settlement arrangements were entered into during the period when they were on interim bail and that the

respondent was in a position to exercise considerable bargaining power in view of the pending criminal proceedings. It is submitted that the terms of the settlement were highly onerous and required substantial monetary payments and issuance of post-dated cheques.

26. In this regard, learned counsel submits that the settlement arrangements cannot be examined in isolation from the circumstances in which they came to be executed. It is contended that the petitioners did not possess equal bargaining power and that the settlement was entered into under circumstances which, according to them, amounted to coercion and undue pressure. The petitioners have also relied upon the fact that relinquishment deeds concerning valuable properties were executed in favour of the son of the respondent during the same period. According to the petitioners, these circumstances demonstrate the manner in which the settlement arrangements came to be entered into and also provide the background to their subsequent challenge to the MOU.

27. Learned counsel submits that the petitioners have already taken steps before the civil court challenging the MOU and seeking appropriate declaratory and consequential reliefs. It is therefore contended that the respondent cannot treat the disputed MOU as an unquestionable and independent source of a legally enforceable liability for the purposes of Section 138 of the Negotiable Instruments Act, particularly when its very validity and voluntariness are under challenge.

28. It is further submitted that the petitioners had placed these aspects before the learned Trial Court in their respective responses to the notice issued under Section 223 BNSS. However, according to the petitioners, the material objections raised by them, including the absence of any

legally enforceable liability, the circumstances surrounding the execution of the settlement agreements and the absence of any document accounting for the alleged liability, were not adequately considered before issuance of summons.

29. Learned counsel submits that the present petitions do not seek an adjudication of disputed questions of fact by this Court. Rather, the contention is that the documents relied upon by the respondent herself, particularly the settlement agreements, when read as a whole, do not disclose the existence of the legally enforceable liability which constitutes the foundation of an offence under Section 138 of the Negotiable Instruments Act. It is submitted that where the foundational documents relied upon by the complainant themselves disclose the nature and conditions attached to the alleged liability, the High Court can examine the same in exercise of its inherent jurisdiction.

30. Learned counsel further submits that the respondent's son, who is stated to be instrumental in pursuing the proceedings on behalf of the respondent, also had a separate interest in the family property disputes. It is contended that the petitioners' wife had surviving rights and interests in properties belonging to her father and that relinquishment deeds concerning such properties were obtained in favour of the respondent's son. The petitioners submit that the subsequent civil proceedings concerning these properties are also pending adjudication and that these circumstances demonstrate the broader nature of the disputes between the parties.

31. Learned counsel submits that the proceedings under Section 138 of the Negotiable Instruments Act cannot be permitted to be utilised merely

as a means of enforcing a disputed settlement arrangement where the foundational liability itself is alleged to be non-existent. According to the petitioners, the criminal process cannot be permitted to become a substitute for adjudication of a disputed civil claim, particularly where the parties' rights under the settlement agreement are themselves under challenge.

32. It is further submitted that the present petitions are maintainable notwithstanding the availability of remedies before the learned Trial Court. Reliance is placed upon the decision of the Hon'ble Supreme Court in ***Mukesh & Ors. v. State of U.P. & Ors., SLP (Crl.) No.12354/2024***, to contend that the availability of a remedy before the Trial Court at the stage of charge or discharge does not, by itself, operate as a bar to the exercise of jurisdiction under Section 482 Cr.P.C. The petitioners submit that the inherent jurisdiction of this Court remains available where the circumstances warrant interference to prevent abuse of the process of law.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

33. Learned counsel for the respondent submits that the complaint discloses all the foundational ingredients of an offence under Section 138 of the Negotiable Instruments Act. The cheques were issued pursuant to the settlement agreement, were presented within the prescribed period and were dishonoured for insufficiency of funds. Thereafter, the statutory demand notice was issued and the petitioner failed to make payment within the prescribed period. Thus, there was sufficient material before the learned Trial Court to take cognizance and issue process.

34. It is further submitted that Section 139 of the Negotiable

Instruments Act raises a statutory presumption in favour of the holder of the cheque. Once issuance of the cheques and the signatures thereon are not in dispute, the question whether the petitioner can rebut the statutory presumption by establishing that there was no legally enforceable debt is a matter to be tested on the basis of evidence during trial. Such disputed questions cannot ordinarily be adjudicated in proceedings under Section 528 BNSS.

35. Learned counsel places reliance upon the judgment of the Hon'ble Supreme Court in ***Rathish Babu Unnikrishnan v. State (Govt. of NCT of Delhi), (2022) 20 SCC 661***, wherein the scope of interference at the pre-trial stage has been explained. It is submitted that the High Court, while exercising its inherent jurisdiction, ought not to undertake an appreciation of disputed facts or examine the defence of the accused as if conducting a trial.

36. Reliance is also placed upon the recent judgment of the Hon'ble Supreme Court in ***Renuka v. State of Maharashtra & Ors., 2026 INSC 327***, wherein the statutory presumption under Section 139 of the Negotiable Instruments Act and the requirement of rebutting the same through appropriate evidence have been reiterated. It is submitted that the petitioner cannot seek to displace the statutory presumption merely by raising a defence regarding the absence of a legally enforceable debt at the stage of issuance of process.

37. Learned counsel submits that the petitioner's reliance upon the alleged coercion or circumstances surrounding execution of the MOU raises disputed questions of fact. The respondent specifically disputes the petitioner's version in this regard. Such questions require evidence and

cannot form the basis for quashing the complaint at the threshold.

38. It is further submitted that the petitioner himself had relied upon the settlement and acknowledged the liability in the bail proceedings instituted before the learned Trial Court on 01.08.2024. The certified copy of the said application has also been placed before this Court. The said application contain the petitioner's acknowledgment regarding the settlement and the amount payable thereunder. The petitioner cannot, therefore, seek to have the same disputed factual questions conclusively determined in the present proceedings.

39. Learned counsel submits that the impugned order does not suffer from any perversity, illegality or jurisdictional infirmity. The learned Trial Court considered the material placed before it and recorded a prima facie satisfaction that sufficient grounds existed to proceed against the petitioner under Section 138 of the Negotiable Instruments Act.

40. It is finally submitted that the present petition is an attempt to prematurely terminate a statutory prosecution on the basis of the defence sought to be raised by the petitioner. The petitioner has an adequate opportunity before the learned Trial Court to rebut the statutory presumption and establish his defence in accordance with law. No exceptional circumstance warranting exercise of the inherent jurisdiction of this Court has been made out.

<u>ANALYSIS AND FINDINGS:</u>

41. This court has heard learned counsel for the parties and have perused the material placed on record.

42. The principal question which arises for consideration is whether, at the stage of issuance of process in the complaints under Section 138 of the

Negotiable Instruments Act, this Court ought to examine the petitioners' defence that the cheques were not issued towards any legally enforceable debt and that the liability contemplated under the respective settlement agreements was contingent upon the outcome of the proceedings arising out of FIR No. 41/2022.

43. At the outset, it is necessary to bear in mind the limited scope of interference by this Court in exercise of jurisdiction under Section 528 of the BNSS, corresponding to Section 482 Cr.P.C. The power is undoubtedly wide, but is to be exercised sparingly and with circumspection. At the stage of issuance of process, the Court is not required to undertake a detailed examination of the defence of the accused or to determine disputed questions of fact which require appreciation of evidence.

44. The present proceedings arise under Section 138 of the Negotiable Instruments Act. In such cases, the statutory presumptions contained in Sections 118 and 139 of the Negotiable Instruments Act assume significance. Once the foundational facts relating to the issuance of the cheque, its presentation and dishonour and the issuance of the statutory notice are prima facie disclosed, and the issuance of the cheque and the signatures thereon are not disputed, the presumption under Section 139 operates in favour of the holder of the cheque. The presumption includes the existence of a legally enforceable debt or liability and is, of course, rebuttable by the accused in accordance with law.

45. The Hon'ble Supreme Court in ***Rathish Babu(supra)***, has considered a somewhat similar contention where the accused sought quashing of proceedings under Section 138 of the Negotiable Instruments

Act on the ground that the cheques were contingent/security cheques and were not issued in discharge of a legally recoverable debt. The Hon'ble Supreme Court declined to interfere and held that where the factual controversy is yet to be considered by the Trial Court and the statutory presumption operates in favour of the complainant, the High Court ought to be slow in quashing the proceedings at the pre-trial stage.

46. More importantly, the Hon'ble Supreme Court observed that the burden of proving that there was no existing debt or liability is to be discharged at trial and that, merely on the basis of the averments made in the petition, the High Court cannot conclude that there was no existing debt or liability. It was further held that the quashing Court should not undertake a detailed enquiry into disputed facts or separate the wheat from the chaff at the pre-trial stage. The Court ultimately held that a factual defence, in order to justify interference at such an early stage, would have to be of such unimpeachable quality as to altogether disprove the allegations in the complaint.

47. The aforesaid principle applies with considerable force to the present case. The petitioners seek to contend that there was no subsisting liability on the date of issuance of the cheques, that the amount mentioned in the MOU was not referable to any pre-existing debt, that the MOU was contingent upon the quashing of FIR No. 41/2022 and that there was no statement of account or other document independently demonstrating the alleged liability. These are matters which may constitute a defence to the complaints. However, whether these circumstances are sufficient to rebut the statutory presumption under Section 139 of the Negotiable Instruments Act is a matter which cannot be conclusively determined in

the present proceedings.

48. The reliance placed by the petitioners upon the terms of the MOU itself does not alter the position. The MOU dated 31/07/2024 admittedly records the settlement between the parties, the amount of Rs.2,00,00,000/- payable by Neeraj Jaju towards full and final settlement of the claims and the issuance of six post-dated cheques towards the settlement amount. The petitioners may, at trial, rely upon the other clauses of the MOU, including the clause relating to the proposed quashing of the FIR and refund in the event the FIR was not quashed. However, the effect and interpretation of these clauses, when read with the other terms of the MOU and the surrounding circumstances, is itself a matter requiring consideration of evidence.

49. In fact, the subsequent judgment of the Hon'ble Supreme Court in ***Renuka (supra)*** relied upon by the respondent, is particularly relevant to the controversy at hand. In the aforesaid judgement, the cheque had been issued pursuant to a settlement arrangement between the parties and the defence was that, on the date of issuance of the cheque, there was no legally enforceable debt. The Hon'ble Supreme Court held that where the basic ingredients of Section 138 are prima facie satisfied and the issuance of the cheque and its signature are not disputed, the statutory presumption under Section 139 is triggered and cannot be displaced at the pre-trial stage merely by asserting that there was no legally enforceable debt.

50. The factual setting in ***Renuka (supra)*** is of particular relevance. There also, the cheque was issued in the backdrop of a settlement agreement between the parties, and an argument was advanced that the liability under the cheque would arise only upon the happening of a

particular event. The Hon'ble Supreme Court nevertheless held that such disputed questions concerning the existence of outstanding liability were questions of fact which had to be determined at trial on the basis of evidence.

51. The judgment in ***Renuka (supra)*** therefore squarely answers the submission of the petitioners that the liability under the MOU was contingent. At this stage, this Court cannot examine the MOU in isolation, determine the legal effect of each of its clauses and thereafter return a conclusive finding that the cheques could never represent a legally enforceable liability. Such an exercise would effectively amount to conducting a trial on the defence of the petitioners.

52. It is also significant that the petitioners do not dispute the execution of the respective settlement arrangements or the issuance of the cheques pursuant thereto. Their case essentially is that the liability contemplated by the settlement was not legally enforceable and that the cheques were issued in circumstances of alleged pressure and unequal bargaining power. These very circumstances strengthen the conclusion that the controversy is factual in nature and requires evidence.

53. The contention that no statement of account, balance sheet, computation of damages or other document has been placed on record to establish the liability also cannot, at this stage, furnish a ground for quashing the proceedings. The respondent's case is founded upon the settlement agreements executed between the parties and the cheques issued pursuant thereto. Whether the settlement amount constituted a legally enforceable liability and whether the petitioners are able to rebut the statutory presumption are matters to be tested in accordance with the

procedure prescribed under the Negotiable Instruments Act.

54. The argument that the settlement amount was not founded upon an adjudicated claim for damages is equally a matter which cannot be conclusively determined at this stage. A settlement is, by its very nature, an agreement between parties to resolve their existing disputes and claims on mutually agreed terms. The legal effect of the settlement, including the consideration for the promise to pay the agreed amount, would have to be examined in the factual and contractual context in which the settlement was executed. The mere absence of a prior decree or adjudication quantifying damages does not, by itself, establish at the stage of issuance of process that the cheque was not issued towards a legally enforceable liability.

55. The petitioners have also relied upon the circumstances in which the settlement agreements were executed and have alleged coercion, undue pressure and absence of equal bargaining power. These allegations are specifically disputed by the respondent. The petitioners have also referred to the property disputes and the relinquishment deeds executed in favour of the respondent's son. These allegations may constitute part of the petitioners' defence and may be relevant to the validity or voluntariness of the settlement arrangements. However, they are plainly disputed matters of fact. This Court cannot, in exercise of its jurisdiction under Section 528 BNSS, record findings on the truthfulness of these allegations without the parties having led evidence.

56. The fact that the petitioner Neeraj Jaju has subsequently instituted civil proceedings seeking, inter alia, declaration and cancellation of the MOU dated 31.07.2024 also does not, by itself, render the criminal

proceedings under Section 138 of the Negotiable Instruments Act unsustainable. The very fact that the validity and effect of the MOU are the subject matter of separate proceedings demonstrates that the controversy is contested and requires adjudication. The pendency of such proceedings cannot, at the threshold, lead to a finding that the cheque issued pursuant to the settlement did not represent a legally enforceable liability.

57. The contention that the respondent's son had an independent motive or interest in the property disputes also does not assist the petitioners at this stage. The respondent's complaint under Section 138 of the Negotiable Instruments Act has to be examined on the basis of the statutory ingredients and the material placed before the learned Trial Court. Allegations concerning the motive of the respondent or her son are matters of defence and cannot displace the statutory presumption merely at the stage of issuance of process.

58. In the present case, the petitions are being considered on merits. The existence of jurisdiction under Section 528 BNSS is not in doubt. The question is whether the exceptional circumstances warranting exercise of that jurisdiction have been made out. In view of the statutory presumption under Section 139 of the Negotiable Instruments Act and the disputed factual issues raised by the petitioners, the answer has to be in the negative.

59. The decision in ***Renuka (supra)*** further makes it clear that at the stage of issuance of process, the Court is required to examine whether the basic ingredients of Section 138 have been prima facie satisfied. Where the cheque was drawn by the accused, its issuance and signature are not

disputed, the cheque was presented and dishonoured, statutory notice was issued and the complaint was filed within the prescribed period, the statutory presumption is attracted. The burden then shifts to the drawer to rebut the presumption during trial.

60. In the present case, the learned Trial Courts have, upon consideration of the complaints, the settlement documents, the cheques and the material placed before them, found sufficient grounds to proceed against the petitioners. No material of such sterling and unimpeachable character has been brought before this Court which completely rules out the respondent's case. On the contrary, the documents relied upon by both sides demonstrate the existence of a settlement, the agreed monetary obligations and the issuance of cheques pursuant thereto.

61. It is also pertinent that the petitioners' contention that the cheques were not towards an existing liability cannot be accepted merely because the cheques were post-dated. A post-dated cheque may form the subject matter of proceedings under Section 138 if, on the date when it becomes payable and is presented, a legally enforceable liability exists. Whether the liability had crystallised in terms of the settlement and whether the conditions attached to the settlement had been fulfilled are questions to be determined on the evidence led by the parties.

62. The Court is conscious that the petitioners have raised several grounds concerning the interpretation of the settlement agreements. However, the exercise contemplated under Section 528 BNSS is not one of choosing between two competing factual versions. As held in ***Rathish Babu Unnikrishnan (supra),*** where facts are contested, the quashing Court should not undertake the exercise of separating the wheat from the

chaff or conclusively vindicate either the complainant or the accused at the pre-trial stage.

63. The present case does not fall within a category where, even accepting the allegations in the complaint in their entirety, no offence under Section 138 of the Negotiable Instruments Act is disclosed. Rather, the complaints disclose the settlement arrangements, issuance of cheques, their dishonour and the subsequent statutory steps. The defence raised by the petitioners seeks to explain why, notwithstanding these circumstances, no legally enforceable liability existed. That is precisely the nature of a defence which has to be tested in trial.

CONCLUSION:

64. This Court therefore finds that the petitioners have not been able to demonstrate any perversity, patent illegality or jurisdictional infirmity in the respective summoning orders.

65. In view of the aforesaid discussion, no ground is made out for exercise of the inherent jurisdiction of this Court. The petitions are accordingly dismissed. Pending applications, if any, also stand disposed of.

66. Copy of this judgement be sent to the learned Trial court for necessary information and compliance.

MADHU JAIN
(JUDGE)

AUGUST 25, 2026/*P*