2026 INSC 40

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 141 OF 2026
[ARISING OUT OF S.L.P. (CRIMINAL) NO.10770 of 2025]

SUMIT BANSAL **... APPELLANT(S)**

VERSUS

M/S MGI DEVELOPERS AND PROMOTERS AND ANOTHER **... RESPONDENT(S)**

WITH

CRIMINAL APPEAL NO. 142 OF 2026
[ARISING OUT OF S.L.P. (CRIMINAL) NO.11262 of 2025]

CRIMINAL APPEAL NO. 143 OF 2026
[ARISING OUT OF S.L.P. (CRIMINAL) NO.11647 of 2025]

AND

CRIMINAL APPEAL NO. 144 OF 2026
[ARISING OUT OF S.L.P. (CRIMINAL) NO.11787 of 2025]

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Leave granted.

2. The present batch of Appeals arises out of two separate judgments dated 17.04.2025 passed by the High Court of Delhi[1] in the petitions filed under Section 482 of the Code of Criminal Procedure, 1973[2] seeking quashing

[1] 'High Court'
[2] 'Cr.PC'

of a set of four complaints instituted under Section 138 read with Sections 141 and 142 of the Negotiable Instruments Act, 1881[3].

3. The complainant in all the four complaints is one Shri Sumit Bansal, who is appellant in the lead Appeal and respondent in the connected Appeals, whereas the accused are M/s. MGI Developers and Promoters, a proprietorship concern, and its proprietor Shri Manoj Goyal, who are the respondents in the lead Appeal and the appellants in the connected Appeals. For our convenience in adjudicating all the Appeals, Shri Sumit Bansal will be referred to as 'the complainant', whereas M/s. MGI Developers and Promoters and Shri Manoj Goyal will be referred to as 'Respondent No. 1' and 'Respondent No. 2' respectively.

FACTUAL MATRIX

4. The record discloses that the parties had entered into an Agreement to Sell dated 07.11.2016 in respect of three commercial units bearing Nos. S-1, S-2 and S-3 situated in a commercial project named "MGI Mansion", located at Khasra Nos. 966 and 967, Village Noor Nagar, Tehsil and District Ghaziabad, Uttar Pradesh. The total sale consideration agreed between the parties was Rs. 1,72,21,200/- (Rupees One Crore Seventy-two Lakh Twenty-one Thousand and Two Hundred only), which was admittedly paid by the complainant to the proprietorship firm. Under the terms of the Agreement, the vendor was obliged to execute and register the Sale Deed(s) in favour of the complainant on or before 30.09.2018, and in the event of failure to do so,

[3] 'NI Act'

the entire amount received was to be refunded to the complainant together with an appreciation amount by way of compensation.

5. On 27.07.2018, Respondent No.2 executed a personal guarantee undertaking to ensure refund of the amount together with the appreciation amount in case the sale deeds were not executed to the complainant within the stipulated period. To secure the said liability, he also undertook to issue personal cheques corresponding to the firm's cheques, to provide an alternative mechanism for repayment.

6. Upon the failure of Respondent Nos. 1 and 2 to execute the Sale Deed(s) by 30.09.2018, Respondent No. 1 issued two cheques of that date, namely Cheque No. 057140 for Rs. 1,72,21,200/- representing the principal consideration, and Cheque No. 057141 for Rs. 35,00,000/- representing the appreciation amount. In addition, in terms of his personal guarantee, Respondent No. 2 issued two personal cheques, also dated 30.09.2018, being Cheque No. 114256 for Rs. 1,72,21,200/- and Cheque No. 114257 for Rs. 35,00,000/-. These cheques were handed over to the complainant with an understanding that the personal cheques could be presented earlier, while the firm's cheques would be available for presentation later.

7. Acting on such understanding, the complainant presented the personal cheques for encashment on 05.12.2018. However, both the cheques were returned dishonoured on 06.12.2018 with the bank's remark "Exceeds Arrangement". Subsequently, the complainant presented the firm's cheques on 15.12.2018, which too were returned unpaid on 17.12.2018 with the remark "Funds Insufficient". The complainant thereafter issued a statutory

notice dated 21.12.2018 to all the accused persons demanding payment within the statutory period, but despite service, no payment was made.

8. Consequently, the complainant instituted the first two complaints under Section 138 of the NI Act. The first was Complaint Case No. 2823 of 2019, filed on 25.01.2019, in respect of the personal cheque Nos. 114256 and 114257 issued by Respondent No. 2, wherein cognizance was taken and summons issued on 20.06.2019. The second was Complaint Case No. 3298 of 2019, filed on 30.01.2019, in respect of the firm's cheques Nos. 057140 and 057141, for which the summoning order was passed on 06.03.2019.

9. Thereafter, in continuation of the earlier transaction, Respondent Nos. 1 and 2 again issued fresh cheques. On 28.02.2019, Respondent No. 1 issued Cheque No. 562629 for Rs. 35,00,000/-, and Respondent No. 2 issued Cheque No. 114275 for the same amount, again towards the appreciation sum. Cheque No. 114275, when presented on 11.03.2019, was dishonoured on 12.03.2019 with the endorsement "Exceeds Arrangement". Respondent No. 1's cheque No. 562629, presented on 08.05.2019, was also dishonoured on 09.05.2019 with the remark "Funds Insufficient". A statutory notice having been issued and no payment made, the complainant filed another complaint, Complaint Case No. 13508 of 2019, for which cognizance and summoning were ordered on 17.08.2019.

10. Subsequently, on 31.07.2019, further cheques were issued in relation to the same underlying transaction with Respondent No. 1 issued Cheque No. 562656 for Rs. 35,00,000/-, and Respondent No. 2 issued Cheque No. 000084 for Rs. 35,00,000/-. These were presented in October 2019 and were

dishonoured on 28.10.2019 and 26.10.2019, respectively. The complainant issued statutory notices dated 30.10.2019, and upon failure of payment, instituted two more complaints being Complaint Case Nos. 740 of 2020 and 743 of 2020, both filed on 09.01.2020, wherein cognizance and summoning orders were passed on 24.11.2022.

11. In this manner, a total of five complaint cases came to be filed by the complainant against the same set of accused, each complaint relating to distinct cheque instruments and separate dates of presentation and dishonour: **(i)** Complaint Case No. 2823/2019; **(ii)** Complaint Case No. 3298/2019; **(iii)** Complaint Case No. 13508/2019; **(iv)** Complaint Case No. 740/2020[4]; and **(v)** Complaint Case No.743/2020, the last two arising out of the same set of transactions.

12. Aggrieved by the institution and continuation of the said criminal complaints and the summoning orders passed thereafter, Respondent Nos. 1 and 2 preferred petitions before the High Court of Delhi under Section 482 of the Cr.PC seeking quashing of the complaints and the summoning orders.

13. Vide its judgment dated 17.04.2025 passed in Crl.MC No. 7912 of 2023 and Crl.MC No. 8002 of 2023, the High Court, upon consideration of the material, observed that the cheques which formed the basis of the first two complaints (i.e., Complaint Case Nos. 2823 of 2019 and 3298 of 2019) were drawn and presented in respect of the same underlying liability, namely, refund of the same sale consideration under the Agreement to Sell dated

[4] This Complaint Case is not a subject-matter of the present Appeals.

07.11.2016. The Court held that the complainant could not simultaneously maintain two separate complaints in respect of the same debt or liability, merely because separate sets of cheques i.e., one issued in the name of the firm and another personally by its proprietor, had been presented and dishonoured. It was, thus, concluded that continuation of both complaints would amount to parallel prosecution for the same cause of action. On that reasoning, the High Court quashed the complaint relating to the firm's cheques (Complaint Case No. 3298 of 2019) in entirety, and also partially quashed the complaint relating to the personal cheques (Complaint Case No. 2823 of 2019) only insofar as it concerned Smt. Kavita Rani Goyal, who was not a signatory to the cheques nor shown to be involved in the transaction.

14. In a separate judgment dated 17.04.2025 passed in Crl.MC No. 2161 of 2024 and Crl.MC No. 7632 of 2023 as regard to the later complaints (Complaint Case No. 13508 of 2019 and Complaint Case No. 743 of 2020) against both the respondents, the High Court noted that those cheques were issued subsequently, on distinct dates, representing independent and fresh causes of action upon successive dishonours. The High Court, therefore, held that the same could not be said to be barred by reason of multiplicity or identity of cause and declined to quash those complaints at the threshold, observing that whether those instruments were issued in discharge of legally enforceable debt would be a matter of trial.

15. Being aggrieved, the complainant has preferred the present Appeal, which is the lead matter, before this Court challenging the quashing of Complaint Case No. 3298 of 2019 by the High Court, whereas Respondent

No. 2 has filed separate Appeals, which are companion Appeals, assailing the refusal of the High Court to quash the other complaints against him. The complainant did not challenge the order insofar as it related to Smt. Kavita Rani Goyal, therefore, that portion remains uncontested before us.

16. While issuing notice on the lead Appeal, preferred by the complainant, this Court had stayed the effect and operation of the impugned judgment dated 17.04.2025 in Crl.MC No. 8002 of 2023, whereby the High Court had quashed Complaint Case No. 3298 of 2019 against Respondent No. 2.

SUBMISSION OF PARTIES

17. Learned counsel for the complainant argued that the impugned judgment of the High Court failed to recognise that the respondents throughout the litigation have nowhere disputed the issuance, presentation and dishonour of the cheques and nor have denied the underlying liability.

18. Learned counsel has submitted that the High Court erred in quashing Complaint Case No. 3298 of 2019 against the respondents on the ground that since the personal cheques issued by Respondent No. 2 were already presented, the other cheques issued from the firm's account ought to have been returned. Learned counsel points out that neither of the cheques were cancelled nor returned by the complainant to the respondents. Therefore, learned counsel submits that once the ingredients of Section 138 of the NI Act are satisfied, presumption of liability continues to exist against the respondents.

19. With respect to the Appeals filed by the respondents challenging the High Court's refusal to quash other complaint cases, learned counsel for the complainant submits that the impugned judgment of the High Court was correct in not quashing Complaint No. 2823 of 2019 as regards Respondent No.2, Complaint Case No. 13508/2019, and Complaint Case No. 743/2020, registered against the respondents.

20. Lastly, learned counsel for the complainant submits that the arguments of the respondents that the payment has already been made to the complainant is a disputed question of fact and the High Court was right in not interfering with the same under Section 482 of the Cr.PC.

21. *Per contra*, learned senior counsel for the respondents has argued that all the four complaints against them are not in conformity with Section 138 of the NI Act. He points out that the principal amount in the alleged Agreement dated 07.11.2016 was of Rs 1,72,21,200/- and Rs 35,00,000/- as appreciation amount, however, the total amount claimed in these five complaints goes to Rs 5,19,42,400/-.

22. Learned senior counsel for the respondents has argued that the Complaint Case No. 3298 of 2019 was rightly quashed by the High Court. He submits that the complainant had already exhausted his remedy by instituting the personal cheque issued by Respondent No.2 and, therefore, was barred by estoppel in instituting the other cheques issued by the firm.

23. Lastly, with respect to the other complaints, learned senior counsel for the respondents submits that no amount is due to be paid to the complainant

as the same is already returned. Therefore, he submits that there exists no liability whatsoever of the respondents.

ANALYSIS

24. We have heard the learned counsel for the parties and have carefully perused the material on record.

25. The issues that arise for our consideration are:

a) Whether the High Court was right in quashing Complaint Case No. 3298 of 2019 and the consequential summoning order dated 06.03.2019 against Respondent Nos. 1 and 2 herein arising out of the dishonour of the firm's cheque Nos. 057140 and 057141, on the ground that it related to the same underlying liability for which another complaint i.e., Complaint Case No. 2823 of 2019 had already been instituted and whether the same would not amount to conducting a 'mini trial' which is clearly prohibited under the scheme of Section 482 of the Cr.PC; and

b) Whether the High Court erred in not quashing the criminal proceedings against Respondent No. 2 arising out of Complaint Case No. 2823 of 2019, Complaint Case No. 13508 of 2019 and Complaint Case No. 743 of 2020.

26. Before adverting to the rival contentions, it is appropriate to recall the settled legal principles which govern the exercise of the inherent jurisdiction of the High Court under Section 482 of the Cr.PC. This Court in catena of judgments has emphasised that the High Court must avoid usurping the

function of a Trial Court or conducting a *mini trial* when disputed factual questions attend the maintainability of a complaint. In ***State of Haryana and Others vs. Bhajan Lal and Others***[5], a Division Bench of this Court had discussed about the scope of Section 482 of the Cr.PC as follows:

> "102. 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 have given 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 FIR 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 FIR 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 FIR 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

[5] 1992 Supp (1) SCC 335

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."

(emphasis supplied)

27. In a much recent decision of this Court in ***Neeharika Infrastructure Private Limited vs. State of Maharashtra and Others***[6], a three-Judge Bench had held that the power to quash criminal proceedings must be exercised sparingly, and only where the complaint, even if accepted in full, discloses no offence or continuation would amount to abuse of process of law. This Court had issued the following directions to the High Courts to be kept in mind while exercising the power under Section 482 of the Cr.PC:

"**Conclusions**

33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1....

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information

[6] (2021) 19 SCC 401

report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. While examining an 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 in the FIR/complaint.

33.6....

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8 to 33.11....

33.12. The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13 and 33.14....

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

....."

(emphasis supplied)

28. On these lines, it is apt clear that even though the powers under Section 482 of the Cr.PC are very wide, its conferment requires the High Court to be more cautious and diligent. While examining any complaint or FIR, the High

Court exercising its power under this provision cannot go embarking upon the genuineness of the allegations made. The Court must only consider whether there exists any sufficient material to proceed against the accused or not.

29. As we have now discussed the trite law on the powers of High Court under Section 482 of the Cr.PC, we will now individually deal with the facts of the present Appeals. Considering that there are two sets of Appeals before us, one by the complainant and other three by Respondent No. 2, we would be dealing both sets separately.

A. Criminal Appeal arising out of S.L.P. (Criminal) No.10770 of 2025 (preferred by the complainant)

30. From the material on record, it is evident that the complainant was in possession of two cheques bearing nos. 057140 and 057141, both dated 30.09.2018, for Rs.1,72,21,200/- and Rs.35,00,000/- respectively, issued by Respondent No. 2 on behalf of the firm. The complainant asserts that, citing temporary financial constraints in the firm, Respondent No. 2 issued two additional cheques from his personal joint account (with his wife Smt. Kavita Rani Goyal) with nos. 114256 and 114257, also dated 30.09.2018, for the same amounts as a personal guarantee, to be invoked if repayment was sought prior to 15.12.2018. The complainant presented the personal cheques for encashment on 05.12.2018, which were dishonoured, and return memos were issued on 06.12.2018. Upon being apprised of the dishonour, the accused had expressed regret and advised the complainant to present the firm's cheques, assuring their honour. When the firm's cheques were presented for encashment, they were also dishonoured. This led to two

complaints being filed, first was Complaint Case No. 2823 of 2019, filed on 25.01.2019, in respect of the personal cheques Nos. 114256 and 114257, and the second was Complaint Case No. 3298 of 2019, filed on 30.01.2019, in respect of the firm's cheque Nos. 057140 and 057141.

31. The complainant is before us challenging the impugned judgment by which the High Court had quashed Complainant Case No. 3298 of 2019 registered against Respondent Nos.1 and 2. In dealing with the case of the complainant before us, it would be appropriate to advert to the observations made by the High Court in paragraph 10 of the impugned judgment in Crl.MC Nos.7912/2023 and 8002/2023:

> "10. As pointed hereinabove, it is the case of the respondent himself in CRL.M.C. 7912/2023 that the cheques issued from the personal bank account of petitioner no. 1 (jointly held by petitioner nos. 1 and 2) were given as an option to the respondent in case he wanted the money to be credited in his account before the date as stated in the said complaint, i.e., 15.12.2018. In essence therefore, the cheques issued by petitioner no. 1 from his personal bank account were in lieu of the cheques issued by petitioner no. 1 from the bank account of the petitioner firm. In these circumstances the cheques issued by petitioner no. 1 on behalf of the petitioner firm in the first instance should either have been returned by the respondent and in any case, ought not to have been presented. There is absolutely no disclosure on behalf of the respondent in the complaint filed subsequently with respect to the cheques issued by petitioner no. 1 on behalf of the petitioner firm, i.e., in Complaint Case no. 3298/2019 (subject-matter of CRL. M.C. 8002/2023) with regard to the cheques already issued by petitioner no. 1 from his personal bank account. In view of the averments made in the complaints, there cannot be in any manner, doubt left that the respondent exercised his option to present the cheques issued from the personal bank account of the petitioner towards the personal guarantee for discharge of the liability. In these circumstances, the respondent cannot be permitted to present the other set of cheques issued from the bank account of the petitioner firm again for the same transaction. In these circumstances, in the considered opinion of this Court, continuance of proceedings in Criminal Complaint no. 3298/2019 (subject matter of CRL.M.C. 8002/2023) would be an abuse of process of law and therefore, in the interest of justice, exercise of powers under Section 482 of the Cr.P.C. by this Court is warranted in the present case."
>
> (emphasis supplied)

32. From a bare perusal of the above observation of the High Court, it can be seen that one of the important factors that weighed in with the High Court while allowing the quashing of Complainant Case No. 3298 of 2019 against Respondent Nos.1 and 2 was that firm's cheques (Nos. 057140 and 057141) and the personal cheques (Nos. 114256 and 114257) issued by Respondent No. 2 represented the same liability under the Agreement to Sell dated 07.11.2016 and, therefore, two parallel prosecutions could not simultaneously stand. The High Court was of the view that the cheques issued by Respondent No. 2 from his personal bank account were *in lieu* of the cheques issued from the bank account of the firm and, therefore, once the complainant had exercised his option to present the cheques issued by Respondent No. 2 from his personal account, the cheques issued from Respondent No. 1's bank account ought not to have been presented later and they should have been returned back. The High Court had also highlighted that in Complainant Case No. 3298 of 2019 which was filed on 30.01.2019, there was no disclosure on the part of the complainant about the earlier Complaint Case No. 2823 of 2019 filed on 25.01.2019 regarding the cheques issued by Respondent No. 2 from his personal bank account. In light of the above, the High Court had proceeded to quash Complaint Case No. 3298 of 2019, holding that its continuation along with Complaint Case No. 2823 of 2019 for the same transaction would be an abuse of process of law.

33. In ***Neeharika Infrastructure Private Limited*** (supra), this Court had made it clear that quashing was to be permissible only where the complaint on its face fails to disclose any offence or where there is unimpeachable

material demonstrating abuse of process of law. On these lines, having perused the impugned judgment of High Court *qua* quashing of Complaint Case No. 3298 of 2019, we are unable to concur with the reasoning reached by the High Court. It is well settled that under Section 138 of the NI Act, a separate cause of action arises upon each dishonour of a cheque provided the statutory sequence of presentation, dishonour, notice, and failure to pay is complete. The fact that multiple cheques arise from one transaction will not merge them into a single cause of action. In the present case, the cheques forming the subject of the two complaints (Complaint Case No. 2823 of 2019 and Complaint Case No. 3298 of 2019) were distinct instruments drawn on different accounts, presented on different dates, dishonoured separately, and followed by independent statutory notices. The scheme of Section 138 of the NI Act does not bar prosecution in such circumstances.

34. Whether those cheques were issued as alternative or supplementary instruments, or represented fresh undertakings, is a disputed question of fact requiring evidence at the time of trial and cannot be resolved at the threshold. Questions such as whether the firm's cheques were issued in substitution of the personal cheques, whether the parties treated them as alternative securities, and whether both were intended to be simultaneously enforceable, are all mixed questions of fact. The inherent jurisdiction of the High Court under Section 482 of the Cr.PC cannot be used to decide such disputed issues.

35. For these reasons, we are of the view that the High Court exceeded its jurisdiction and was not justified in quashing Complaint Case No. 3298 of

2019 and the summoning order dated 06.03.2019. The complaint on its face discloses the ingredients of offence under Section 138 of the NI Act and must proceed to trial.

B. Criminal Appeals arising out of S.L.P. (Criminal) Nos.11262 of 2025, 11647 of 2025 and 11787 of 2025 (preferred by Respondent No.2)

36. We shall now turn to the three Appeals filed by Respondent No. 2 challenging the High Court's refusal to quash Complaint Case No. 743 of 2020, Complaint Case No. 13508 of 2019 and Complaint Case No. 2823 of 2019.

37. Before we delve into the correctness of the impugned judgment of the High Court *qua* the foregoing complaints, it is apposite for us to refer to the Agreement to Sell dated 07.11.2016, which acts as a base for this entire litigation. The relevant portion of the said Agreement is reproduced hereinbelow:

> "7a) That, in case the First Party is unable to get the Sale Deed of the said Commercial Unit(s) registered in favour of the Second Party till 30-09-2018, then the Second party shall be entitled to the refund of Full & Final Payment given against the said Commercial Unit(s). In such an eventuality, the First Party shall be liable to pay a compensation of Rs. 15000/- (Rupees Fifteen Thousand Only) Per day after 30-09-2018 which will be over & above the Full & Final payment amount.
>
> 7b) That the first party will also provide irrevocable Authority Letter in the name of Mr. Narinder Kumar Midha S/o Late Shri K.N. Midha R/o House No. 53, 2nd Floor, Road No.-42, West Punjabi Bagh, New Delhi-110026, enabling him to execute the Power of Attorney, Sale Deed, Agreement to Sell, whichever is applicable and receive consideration/Free transfer to third party for the said commercial units.
>
> 7c) That the First Party also confirms for an appreciation amount of Rs. 35,00,000/- (Rupees Thirty Five Lakh only) to the Second Party if First Party will not be able to deliver the mentioned commercial units in schedule course of time and a post-dated

> cheque no. 057141 drawn on Central Bank of India, Ghaziabad Dt. 30-09-2018 issued to Second Party."
>
> (emphasis supplied)

38. The record clearly indicates that these complaints (Complaint Case No. 2823 of 2019, Complaint Case No. 13508 of 2019 and Complaint Case No. 743 of 2020) arise out of cheques Nos. 114256, 114257, 562629 and 000084 respectively, as issued and dishonoured on different dates in 2018 and 2019, each followed by independent statutory notices and complaint. It is also an admitted fact that each of the above cheques were issued by Respondent No.2 over and above the cheques of the principal amount of Rs.1,72,21,200/- and the appreciation amount of Rs. 35,00,000/-.

39. At this point, it is imperative to refer to the decision in ***Kusum Ingots & Alloys Ltd. vs. Pennar Peterson Securities Ltd. and Others***[7], wherein a Division Bench of this Court had highlighted the ingredients which are to be satisfied for making out a case under Section 138 of the NI Act. The relevant excerpt is reproduced hereinbelow:

> "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;

[7] (2000) 2 SCC 745

> (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."

40. On a careful reading of the ingredients required for commission of offence under Section 138 of the NI Act, we find that the record before us clearly indicates that the cheques, as provided above, were dishonoured, statutory notices were served, cheques were returned, and the summons were thereafter issued. On such material, we are of the view that the complaint *prima facie* stands. Any disputed question of fact *qua* the offence under Section 138 of the NI Act or any defence that Respondent No. 2 wants to raise against the offence alleged must be done during the trial.

41. One of the averments raised by the respondents is that the said cheques were presented illegally by the complainant despite receiving the entire amount already. Learned senior counsel for the respondents had argued that in fact the complainant had invested only Rs 66,50,000/- for which they have already returned Rs 97,00,000/-. Therefore, it is the case of the respondents that there exists no debt or liability.

42. However, we are of the view that the burden of proving whether there exists any debt or liability is something which must be discharged in trial. A bare perusal of Section 139 of the NI Act would indicate that once a cheque is issued in discharge of liability and dishonoured, a presumption of liability in favour of the complainant arises. The accused person is then required to rebut the presumption by raising facts that either there was no debt or liability

when the cheque was drawn, or the cheque was not drawn in discharge of liability, or notice was not served in time. In this regard, we must refer to the decision in ***M.M.T.C. Ltd. and Another vs. Medchl Chemicals and Pharma (P) Ltd. and Another***[8], wherein this Court had made the following observation on this aspect:

> "17. There is therefore no requirement that the complainant must specifically allege in the complaint that there was a subsisting liability. The burden of proving that there was no existing debt or liability was on the respondents. This they have to discharge in the trial. At this stage, merely on the basis of averments in the petitions filed by them the High Court could not have concluded that there was no existing debt or liability."
>
> (emphasis supplied)

43. The statutory presumption attached to the issuance of a cheque, being one made in discharge of a legally enforceable debt or liability, is required to be accorded due weight. Therefore, in circumstances where the accused approaches the Court seeking quashing of proceedings even before the commencement of trial, the Court must exercise circumspection and refrain from prematurely stifling the prosecution at the threshold, particularly by overlooking the legal presumption that operates in favour of the complainant.

44. For these reasons, we are of the view that the High Court was justified in not quashing Complaint Case No. 2823 of 2019, Complaint Case No.13508 of 2019 and Complaint Case No. 743 of 2020 registered against Respondent No. 2 herein. The foregoing complaints *prima facie* discloses the ingredients of offence under Section 138 of the NI Act and must proceed to trial.

[8] (2002) 1 SCC 234

CONCLUSION

45. In light of our aforesaid discussion and for the reasons above, we come to the following conclusion:

a) The Appeal arising out of SLP (Crl.) No. 10770 of 2025 preferred by the complainant is ***allowed.*** The judgment of the High Court dated 17.04.2025 passed in Crl.MC No. 8002 of 2023 quashing Complaint Case No. 3298 of 2019 and the summoning order dated 06.03.2019, is ***set aside***. Complaint Case No. 3298 of 2019 shall stand restored for trial before the concerned Trial Court.

b) The Appeals arising out of SLP (Crl.) Nos. 11262 of 2025, 11647 of 2025 and 11787 of 2025 preferred by Respondent No. 2 are ***dismissed.***

46. All contentions of the parties are left open, which shall be decided by the Trial Court on its own merits and in accordance with law. We make it clear that none of the observations contained herein shall have a bearing on the main trial. The Trial Court shall independently arrive at its conclusion based on the evidence tendered before it.

.....J.
(SANJAY KAROL)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI;
JANUARY 08, 2026