



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: 15<sup>th</sup> December, 2025*  
*Pronounced on: 29<sup>th</sup> January, 2026*

+ **CRL.M.C. 2155/2025, CRL.M.A. 9696/2025, 23020/2025**

**1. GBL CHEMICALS LIMITED,**

Having Registered Office at:  
C-501-502, Lotus Corporate Park,  
Off Western, Express Highway,  
Goregaon, East-Mumbai,

Through its Director  
CMD Sh. Rishi Pilani

.....Petitioner No. 1

**2. MR. RISHI PILANI, (CMD)**

S/o Sh. Ramesh Shankarmal Pilani,  
R/o 10, Second Floor,  
Shanti Sadan, J.B. Nagar,  
Andheri (E) Mumbai-400059

.....Petitioner No. 2

**3. MR. RAMESH SHANKARMAL PILANI, (CFO)**

S/o Late Sh. Shankarmal Ghanshyam Das Pilani,  
R/o 10, Second Floor,  
Shanti Sadan, J.B. Nagar,  
Andherj (E) Mumbai-400059

.....Petitioner No. 3

Through: Mr. Mohit Mathur, Sr. Advocate with  
Mr. Puneet Sharma, Mr. Ashwani  
Kumar, Ms. Iti Sharma, Mr. Vignesh  
and Mr. Aditya Joshi, Advocates.

Versus

**1. STATE OF NCT OF DELHI,**

Through S.H.O,  
Police Station, Hauz Khas,  
New Delhi

.....Respondent No. 1



**2. PROGFIN PRJVATE LIMITED**

76, 1<sup>st</sup> Floor, Okhla Industrjal Estate  
Okhla, New Delhi-110020  
Through it's A.R.  
SH. Kunal Bargava

.....Respondent No. 2

Through: Ms. Richa Dhawan, APP for the State

+

**CRL.M.C. 2156/2025, CRL.M.A. 9701/2025**

**1. GANESH BENZOPLAST LTD.,**

Having Registered Office at:  
1, Dina Building, 1<sup>st</sup> Floor,  
M.K. Road, Marine Lines,  
Mumbai-400002

Through its Director  
CMD Sh. Rishi Pilani

.....Petitioner No. 1

**2. MR. RISHI PILANI, (CMD)**

S/o Sh. Ramesh Shankarmal Pilani,  
R/o 10, Second Floor,  
Shanti Sadan, J.B. Nagar,  
Andheri (E) Mumbai-400059

.....Petitioner No. 2

**3. MR. RAMESH SHANKARMAL PILANI, (CFO)**

S/o Late Sh. Shankarmal Ghanshyam Das Pilani,  
R/o 10, Second Floor,  
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**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. By way of the aforesaid two Petitions under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”) read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C”), The Petitioners seek the quashing of the Summoning Orders dated 04.01.2025 passed by the Learned Judicial Magistrate, New Delhi (hereinafter referred to as the “**Ld. Trial Court**”) in Complaint Case No. 5688/2024 titled *M/s Progfin Private Limited vs. GBL Chemicals Ltd & Ors.* and Complaint Case No. 6285/2024 titled *M/s Progfin Private Limited vs. Ganesh Benzoplast Ltd & Ors.* respectively under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881.



2. *Briefly stated*, the case *Respondent No. 2/M/s Progfin Private Limited* (hereinafter referred to as the ‘**Complainant**’), a Non-Banking Financial Company (‘**NBFC**’), extended a credit facility to *Petitioner No. 1* in CrI. M.C. 2155/2025, *GBL Chemical Limited* (hereinafter referred to as the ‘**Borrower**’).

3. In CrI. M.C. 2156/2025, *Petitioner No. 1 Ganesh Benzoplast Limited* (hereinafter referred to as the ‘**Corporate Guarantor**’), being the holding Company, stood as a Corporate Guarantor for the said facility.

4. A Facility Agreement dated 26.10.2023 was executed between the parties for a principal amount of Rs. 10,00,00,000/-), which was subsequently enhanced by an Addendum dated 30.01.2024. The Complainant disbursed a total sum of approximately Rs. 21.54 Crores (after margin deductions) to the Borrower. It is alleged by the Complainant that as of 31.03.2024, an amount of Rs. 15,44,80,484/- remained unpaid. To discharge this liability, cheque No. 000396 dated 29.04.2024, for an amount of Rs. 15,44,80,484/-, drawn on HDFC Bank, J.B. Nagar, Mumbai, *signed by Accused No. 2/Mr. Ramakant Pilani*, was issued which on presentation, was dishonoured on 30.04.2024 for the reason ‘Drawer’s signature differs’. The Petitioners have asserted that this does not constitute an offence under Section 138 NI Act qua the Company when the signature was unauthorized.

5. Further, M/s Ganesh Benzoplast Limited stood as a corporate guarantor for the credit facilities extended to its sister concern, GBL Chemical Ltd., and issued a security Cheque No. 501951 for Rs. 13,83,86,781/-, under the signature of Mr. Ramakant Pilani. Upon presentation, this cheque was dishonored *vide* Return Memo dated 19.06.2024 with the remarks ‘Funds Insufficient’.



6. A demand Notice was issued on 29.05.2024 *via* email, speed post, and courier. However, the Petitioners failed to pay the cheque amounts.
7. *Respondent No. 2/M/s Progfin Private Limited*, initiated two separate Complaints under Section 138 read with Section 141 of the NI Act, against the Principal Borrower *GBL Chemical Limited* and *Ganesh Benzoplast Limited*, the ‘Corporate Guarantor’ and their officers.
8. The Petitioners were summoned vide Order dated 04.01.2025 in the respective Complaints. However, the proceedings against Mr. Ramakant Pilani were dropped on the ground that he had resigned from the Company on 02.04.2024, which was prior to the presentation of the subject cheques.
9. Petitioner No. 1 has challenged the summoning Order *vide* a Criminal Revision Petition No. 48 of 2025 before the Ld. Sessions Court, specifically contesting the dropping of Mr. Ramakant Pilani from the array of accused, which was withdrawn *vide* Order dated 04.12.2025.
10. The grounds of **challenge in the two Complaints** are that the credit facility was never disbursed into the Company’s authorized accounts, but was diverted into a fraudulent Account opened by Mr. Ramakant Pilani using forged documents, with State Bank of India in the name of ***GBL Chemical Ltd.*** It is alleged that Mr. Pilani fraudulently siphoned off the loan amounts received from the Complainant. The Petitioners are not beneficiary of the loan, but victims of a fraud orchestrated by Mr. Ramakant Shankarmal Pilani, the erstwhile Director/CEO of the Companies.
11. The Petitioners further assert that under the Company’s standing instructions to its bankers, a valid cheque requires the signatures of **two directors**, whereas the subject cheques were signed solely by Mr. Ramakant



Pilani, without authorization and in violation of the bank mandate. Thus, the Cheques were invalid *void ab initio*.

12. The Petitioners lodged *FIR No. 103/2024 at PS Cuff Parade, Mumbai*, and *FIR No. 315/2024 at PS Vanrai, Mumbai* against Mr. Ramakant Pilani regarding the fraud and forgery. Additionally, the Economic Offences Wing (EOW), Delhi, also registered *FIR No. 86/2024* and arrested Mr. Ramakant Pilani, identifying him as the mastermind of the fraud.

13. The Petitioners further contend that since Mr. Ramakant Pilani the signatory of the Cheque has been dropped by the Ld. Trial Court, as he had resigned on 02.04.2024, the other Directors (Petitioner Nos. 2 & 3) cannot be prosecuted vicariously for his fraudulent acts.

14. *Petitioner No. 2/Rishi Pilani* and *Petitioner No. 3/Ramesh Pilani* contend they are not signatories to the cheques and had no knowledge of the transaction due to the fraud played by Ramakant Pilani. Reliance is placed on the judgment of the Apex Court in *Susela Padmavathi Amma vs M/s Bharti Airtel Limited*.

15. *Thus, it is prayed that the Petitions be allowed and the impugned Orders be set aside.*

16. ***Respondent No. 2/Progfin Pvt. Ltd. (Complainant)*** has vehemently opposed the present Petitions by filing a detailed Reply. The Respondent has taken the *preliminary objection* of the suppression of material facts and Forum Shopping.

17. It is stated that ***Petitioner No. 1/GBL Chemical Ltd.*** has already preferred a ***Criminal Revision Petition bearing No. 48/2025*** before the Learned Principal District & Sessions Judge, New Delhi challenging the same impugned Summoning Order dated 04.01.2025. The Respondent



contends that the Petitioners have deliberately suppressed this fact from this Court. It is stated that invoking the inherent jurisdiction of the High Court under Section 528 of the BNSS, while simultaneously pursuing a statutory Revision before the Sessions Court constitutes '*forum shopping*' and a gross abuse of the process of law.

**18.** The Respondent No. 2 has stated that a total sum of Rs. 21,54,34,310/- was disbursed to the Borrower after adjusting the margin money. The debt is supported by a Facility Agreement dated 26.10.2023, an Addendum dated 30.01.2024, and Personal/Corporate Guarantee Deeds executed by the Petitioners. The subject cheques were issued toward the discharge of a legally enforceable debt, arising from a credit facility extended to ***GBL Chemical Ltd/Borrower*** and guaranteed by ***Ganesh Benzoplast Ltd/Corporate Guarantor***.

**19.** Respondent No. 2 has claimed that the Petitioners' narrative of a "*massive fraud*" by the erstwhile Director, Mr. Ramakant Pilani, is a classic afterthought designed to evade criminal liability.

**20.** It is averred that *Petitioner No. 2/Rishi Pilani* is a signatory to the Facility Agreement and has executed a Personal Guarantee. Therefore, the claim that the transaction was handled solely by Mr. Ramakant Pilani, is factually incorrect.

**21.** The Respondent maintains that as a lender, it is a "*holder in due course*" of the cheques. Any internal mismanagement, forgery, or fraudulent Account opening by a Director of the Petitioner Company, is an inter-se dispute between the Company and its officials, which does not extinguish the Accused Company's liability toward the Complainant.



22. Regarding the Return Memo remark ‘*Drawer’s Signature Differs,*’ the Respondent has placed reliance on the case of *Laxmi Dyechem vs. State of Gujarat* wherein the Apex Court held that Section 138 NI Act is attracted even when a cheque is dishonored due to *signature mismatch*, as it is the drawer’s responsibility to ensure that the Instrument conforms to the bank’s mandate. The Respondent asserts that this is often a deliberate tactic used by drawers to frustrate the realization of payments.

23. It is further submitted that Petitioner Nos. 2 and 3 were the Managing Director and Director, respectively, at the time the debt accrued and the cheques were issued. It is alleged that they were actively involved in the negotiations and were aware of the financial status of the Company.

24. The Respondent submits that the Ld. Trial Court correctly took cognizance against them, based on specific averments in the Complaint that they were “*in charge of and responsible for the conduct of the business of the company.*”

25. Finally, Respondent No. 2 has submitted that the defenses raised, such as the requirement of a “joint signatory,” the alleged forgery by Mr. Ramakant Pilani, and the freezing of bank accounts, - are pure questions of fact, which require a full-fledged trial where evidence can be cross-examined. Such *triable issues* cannot be adjudicated in a summary manner within the limited scope of a quashing petition under Section 528 BNSS.

26. *Thus, it is prayed that the Petitions be dismissed.*

### **Submissions Heard and Record Perused:**

### **Analysis and Findings:**



27. At the outset, a *preliminary objection* has been taken that the present Petitions to challenge the summoning Order, is an abuse of the process of law and tantamount to Forum Shopping since Petitioner No. 1 has already preferred a **Criminal Revision Petition 48/2025** against the impugned Summoning Order dated 04.01.2025, before the Ld. Sessions Court.

28. It is a settled principle of law that a litigant cannot pursue parallel remedies for the same relief in different forums. The Apex Court in *Krishnan vs. Krishnaveni* (1997) 4 SCC 241 held that while the High Court's inherent power under Section 482 CrPC (now 528 BNSS) is wide, it should be exercised sparingly, especially when a Revision has been filed.

29. Filing a Revision before the Sessions Court and a quashing petition before the High Court simultaneously, does create an anomalous situation, with a likelihood of different decisions against the same Orders.

30. The Petitioners failed to disclose the filing/pendency of the Revision Petition in their initial pleadings before this Court, which indicates a lack of *bona fides*. Moreover, it is a settled principle, as held in the case of *Tejram Mahadeorao Gaikwad v. Smt. Sunanda Tejram Gaikwad*, 1996 Cri. L.J. 172 that ordinarily the petitioner must approach the first Revisional Court before approaching the High Court under s.481 CrPC.

31. Furthermore, in *Rathish Babu Unnikrishnan vs. State (Govt. of NCT of Delhi)* (2022 SCC OnLine SC 513), the Supreme Court held that quashing proceedings at the pre-trial stage, should not be used to stifle a legitimate prosecution. The defense of the accused, however plausible, is a matter of trial.

**I. The Vicarious Liability of the Directors under Section 141 N.I. Act:**



32. The Petitioner No. 2/Mr. Rishi Pilani and Petitioner No. 3/Mr. Ramesh Pilani, have assailed the *Summoning Orders* on the ground that they have been ‘roped in’ vicariously merely because of their designations as Managing Director and Director/CFO, respectively which is insufficient to satisfy the requirements of Section 141 of the NI Act. They submit that the Complainant has failed to provide specific details as to how they were responsible for the *day-to-day conduct* of business of the Company, in the context of this specific transaction, particularly in light of the documented fraud committed by the CEO.

33. Section 141 of the NI Act deals with offences by companies and stipulates that every person who, at the time the offence was committed, *was in charge and responsible for the conduct of the business of the Company*, shall be deemed guilty. The law regarding the nature of averments required in a Complaint against the directors, has been settled by the Apex Court, starting from *S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla* (2005) 8 SCC 89.

34. In the context of a **Managing Director**/Petitioner No. 2, the Apex Court has held that by virtue of the office, a Managing Director is *ex-officio* in charge of and responsible for the conduct of the business of the Company. More importantly, the **Facility Agreement** and **Personal Guarantee Deeds** bear the signatures of **Petitioner No. 2**. This creates a direct evidentiary link between the Managing Director and the transaction that led to the issuance of the subject cheques. Therefore, the designation along with the averment of being “in charge,” no further specific “role-play” needs to be described at the summoning stage.



35. Similarly, regarding **Petitioner No. 3/Ramesh Pilani**, who is a Director and the Chief Financial Officer (CFO), the nature of the transaction, a multi-crore loan facility, directly involves the financial functions of the Company. His designation and position itself *prima facie* his role in the issuance of multi-crore security cheques and the execution of corporate guarantees for credit facilities.

36. The Complaints contains not only the statutory averments, but has also specifically mentioned that the Petitioners were involved in the negotiations and were responsible for the financial decisions of the Company.

37. At the stage of summoning, the Magistrate is not required to conduct a roving inquiry into the internal dynamics of the Board or the individual knowledge of each Director. If the Complaint contains the basic factual foundation that the Directors were in charge of the business, and the Company is also arrayed as an accused, the requirement of Section 141 is satisfied.

38. A principle recognized by the Apex Court in National Small Industries Corporation Limited v. Harmeet Singh Paintal and Another, (2010) 3 SCC 330, wherein it was held that:

*“39. From the above discussion, the following principles emerge:*

...

*(vi) If the accused is a Director or an officer of a company who signed the cheques on behalf of the company then also it is not necessary to make specific averment in the complaint.*

...”



39. This is a principle recently noted in *Kamalkishor Shrigopal Taparia vs. India Ener-gen Private Limited & Anr.*, 2025 INSC 223 as well.

40. As has also been held, in the recent case of *HDFC Bank Ltd. vs. State of Maharashtra and Anr.*, 2025 INSC 759, by the Apex Court that criminal proceedings under Section 138 N.I Act against a Company Director, cannot be dismissed solely because the Complaint does not precisely replicate the wording of Section 141. The Court underscored that the essence of the allegations, is more important than their form. If the Complaint sufficiently indicates that the Director was actively involved in the Company's day-to-day operations and played a role in the transactions in question, this is enough to meet the threshold for vicarious liability under Section 141(1) NI Act, even if the statutory expression "in charge of and responsible for the conduct of the business" is not quoted verbatim.

41. *The roles of Petitioner Nos. 2 and 3 are sufficiently clearly defined within the statutory framework of Section 141, to warrant a trial.*

## **II. Dropping the Signatory, but Summoning the Company:**

42. The Petitioners have next asserted that the proceedings against Mr. Ramakant Pilani, the sole signatory and alleged mastermind, has been dropped on the technical ground that he had resigned prior to the presentation of the cheques. It is claimed that if the person who actually signed the cheque is not being prosecuted, then the Company/Accused No. 1 and the other Directors, Accused Nos. 3 & 4, cannot be held vicariously liable.

43. This contention is completely flawed as under Section 138 NI Act; the primary liability is that of the 'Drawer' of the cheque. In the present case,



the 'Drawer' is not Mr. Ramakant Pilani in his individual capacity, but the **Petitioner Companies** (GBL Chemical Limited and Ganesh Benzoplast Limited). The Companies are distinct legal entities that act through their agents/Directors.

**44.** The Apex Court in the landmark judgment of *Aneeta Hada vs. Godfather Travels & Tours (P) Ltd.* (2012) 5 SCC 661 established that for maintaining a prosecution against the Directors under Section 141, the Company must be arrayed as an accused. The Company is the principal offender, and the Directors are vicariously liable.

**45.** The reverse, however, is not applicable - the presence of the specific signatory is not a condition precedent for the prosecution of the Company or its other Directors, provided those Directors were "*in charge of and responsible for the conduct of the business of the Company,*" at the relevant time.

**46.** The Petitioners contend that the signatory's resignation prior to the presentation of the cheque breaks the chain of liability. However, liability under Section 138 is not restricted to the moment of signing. The offence under Section 138 is a 'composite offence' that is completed only when the drawer fails to make payment within 15 days of the receipt of the legal demand Notice of the amount of dishonored Cheque.

**47.** If a Director, who is the signatory, resigns before the cheque is presented, the Ld. Trial Court may, in its discretion, find that he was no longer "in charge of the affairs" at the time the offence (dishonor and non-payment) was committed. However, this resignation does not grant amnesty to the **Company** or the **Continuing Directors**. The debt remains a corporate liability.



48. Petitioner Nos. 2 and 3, being the Managing Director and Director/CFO who were in office and responsible for the affairs of the Company, during the presentation and dishonor of the cheques, they are

49. The Ld. Trial Court was, therefore, correct in its assessment that while the signatory might be dropped due to the specific timing of his resignation, the **Company and its active Directors** must face trial to determine the extent of their knowledge and involvement.

50. Thus, the dropping of the signatory of Cheques from these proceedings, does not result in the automatic collapse of the Complaint against the Petitioner Companies and the other Directors.

51. *The statutory presumptions and the principles of corporate vicarious liability necessitate that the matter proceed to trial.*

### **III. The “Mastermind” Theory and Systematic Fraud:**

52. The Petitioners’ attempted to distance themselves by claiming that entire transaction was a fraudulent artifice orchestrated by Mr. Ramakant Shankarmal Pilani (Accused No. 2 in the Complaint). He, by using forged Board Resolutions and identity documents, opened a ‘sham’ Bank Account in the name of GBL Chemical Limited with the State Bank of India (SBI), in which the entire Loan amount was received and the funds were allegedly siphoned off by Mr. Ramakant Pilani for personal gain. No amount came to the account of the Petitioner Company. The Petitioners have thus, sought to avoid their liability by labeling Mr. Ramakant Pilani as the sole ‘mastermind’, who has cheated the Complainant Company.

53. It has been rightly asserted by the Complainant that any internal mismanagement or fraud committed by the Director of the Petitioner



Company, is an inter-se dispute between the Company and its officials, which does not extinguish the Accused Company's liability toward the Complainant. The Petitioners' argument that they were *misled* or *kept in the dark* by the CEO/Mr. Ramakant Pilani, is a defense that falls under the **Proviso to Section 141(1)**.

**54.** Moreover, all these allegations regarding the opening of a 'sham' account at SBI, the forgery of Board Resolutions and the siphoning of funds, are **factual defenses** which are required to be proved by the Complainant, and cannot be considered at the stage of summoning.

**IV. Whether A Prima Facie Case Under S.138 NI Act, is Disclosed:**

**55.** The Facility Agreement was admittedly entered between the Complainant and **GBL Chemical Ltd**, and **Ganesh Benzoplast Ltd/Corporate Guarantor** stood as Guarantor.

**56.** The Agreement and Personal Guarantee Deeds bear the signatures of **Petitioner No. 2/Mr. Rishi Pilani**, the then Director and CEO of the Petitioner Company. A Company, being a legal entity, acts through its Directors and authorized officials.

**57.** If a Director, while clothed with the apparent authority of the Company, issues an instrument to a 'holder in due course' (such as the NBFC here), the Company under Section 141 of the NI Act, is *prima facie* the principal offender.

**58.** *These are triable issues that cannot be determined merely on the basis of affidavits in a quashing Petition.*

**V. Invalidity of the Instrument: Violation of Bank Mandate:**



59. The Petitioners have taken another defense that for a Cheque to be valid, necessarily was required to be signed by two Directors. The standing instructions/mandate was accordingly given to their bankers (HDFC and Union Bank of India), that any cheque issued by the Company, must bear the **signatures of at least two authorized Directors**, to be valid. The subject cheques were signed solely by Mr. Ramakant Pilani, who had no authority of to sign the subject cheques, and were a nullity. The bank's remarks – **“Drawer's Signature Differs”** and **“Want of Joint Signatory”** - corroborate that the cheque was not validly issued on behalf of the Company to fasten any Legal Liability.

60. This argument is legally flawed as it is a well-settled principle of mercantile law that a bank mandate is a matter of contract and instruction between the **Customer (the Company)** and the **Bank**. A third party, such as the Complainant/NBFC, who receives a cheque signed by a person who is admittedly a Director/CEO of the said Company, is entitled to the protection afforded to a 'holder in due course.'

61. The Apex Court in Laxmi Dyechem vs. State of Gujarat (2012) 13 SCC 375 dealt specifically with the interpretation of the “reasons for dishonor.” The Court held that the expression “*amount of money... is insufficient*” or “*exceeds the amount arranged*” must be interpreted liberally to include any situation where the cheque is returned due to the default of the drawer, in maintaining the account mandate. The Court held:

*“The dishonour of a cheque on the ground that the signatures of the drawer do not match the specimen signatures available with the bank would, therefore, constitute an offence under Section 138... the drawer cannot*



*by his own omission or commission, such as changing the signature or not matching it, escape the rigors of Section 138.”*

**62.** The cheques accepted by the Complainant Company in good faith, believing the signatory who was the CEO and a signatory to the Facility Agreements, cannot be overlooked at this stage of summoning. The Instructions relied upon by the Petitioner, is a document which can be considered only at the stage of evidence.

**63.** The drawer of the cheque is the **Company**. Under Section 141 of the NI Act, every person who was in charge of the Company at the time of the offence is deemed guilty. The internal dispute regarding whether Mr. Ramakant Pilani exceeded his authority, is a matter for the Company to settle through its own civil or criminal remedies against him, for which it has already got the FIRs registered, but it does not extinguish the *prima facie* liability under Section 138 NI Act towards the lender.

**64.** The Ld. MM correctly observed that the cheques were issued and subsequently dishonored. As per the mandate of the Apex Court in *Rajeshbhai Muljibhai Patel vs. State of Gujarat* (2020) 3 SCC 794, when there is a dispute regarding the authorization of a signature, the same must be resolved during the trial and not at the threshold under Section 482 CrPC/528 BNSS.

**65.** Consequently, the defense of ‘*Violation of Bank Mandate*’ is a triable issue and a *probable defense* that may be proved during the course of the trial. At this stage of summoning, with no denial that the impugned Cheques had the signatures of Mr. Ramakant Pilani, the statutory presumption remains in favor of the Complainant.



**VI. Absence of Legally Enforceable Debt or Liability:**

66. The Petitioners further contend that since the loan proceeds were diverted into a fraudulent account through forgery, no money came to the account of Petitioner Company. The cheques were “*security cheques*” obtained through the misrepresentation of Mr. Ramakant Pilani and do not represent a valid liability of the Petitioner Companies towards the Complainant. There exists no “*legally enforceable debt*” that binds the Company to repay the Cheque amounts.

67. In evaluating this contention, a reference be made to the statutory presumption in Section 118(a) NI Act which presumes that every negotiable instrument was made or drawn for consideration, and Section 139 creates a vertical presumption that the holder of a cheque received it for the discharge, in whole or in part, of any debt or other liability.

68. The Apex Court in Rangappa vs. Sri Mohan (2010) 11 SCC 441 held that the presumption mandated by Section 139 includes the existence of a legally enforceable debt. While this presumption is rebuttable, the standard of proof for such rebuttal is that of “*preponderance of probabilities,*” and more importantly, such rebuttal must happen during the **trial**. The Court observed:

*“Section 139 of the Act is an example of a reverse onus clause... the accused must raise a probable defense. However, at the stage of summoning, the Court is only concerned with whether the averments in the complaint, taken at face value, satisfy the ingredients of the offence.”*

69. In the present case, the Complainant has placed on record a **Facility Agreement dated 26.10.2023** and an **Addendum dated 30.01.2024**, which



documents the contractual basis of the debt. They have also provided evidence of disbursement of over Rs 21.54 Crores. The Petitioners' argument that they did not **benefit** from this disbursement because of internal siphoning, is a matter of corporate audit and criminal investigation by the EOW, but it does not *ipso facto* invalidate the lender's claim against the Petitioners, at the threshold.

**70.** The Petitioners also contend that *the cheques were issued as "security"* and not for a present debt.

**71.** In *I.C.D.S. Ltd vs. Beena Shabeer* (2002) 2 SCC 426 and more recently in *Sunil Todi vs. State of Gujarat* (2021) SCC OnLine SC 1174, the Apex Court clarified that a cheque issued as security, is also covered under Section 138 if the debt becomes due at the time of the cheque's presentation.

**72.** *Therefore, labeling the instrument a "security cheque," does not provide a ground for quashing of the Complaint.*

**73.** As held in *HMT Watches Ltd. vs. Abida* (2015) 11 SCC 776, the High Court should not express any opinion on the disputed question of whether the debt was legally enforceable or not, in a Petition under Section 482 CrPC, as these are questions of fact to be adjudicated by the Ld. Trial Court upon reading the entire evidence. The relevant paragraph is extracted as under:

*"14. For the reasons as discussed above, we find that the High Court has committed grave error of law in quashing the criminal complaints filed by the appellant in respect of offence punishable under Section 138 of the N.I. Act, in exercise of powers under Section 482 of the Code of Criminal Procedure by accepting factual defences of the accused which were disputed ones. Such defences, if taken*



*before trial court, after recording of the evidence, can be better appreciated.”*

**74. It is not a ground to trim the proceedings by considering the Petitioners defenses, at the stage of summoning.**

**Conclusion:**

**75.** The contentions raised by the Petitioners, that Mr. Ramakant Pilani, committed fraud, opened fake accounts, and signed cheques without authority, are **factual defenses**. Whether the Board Resolutions were forged or genuine, and whether the Company is a victim or a participant, requires evidence. The ‘Mastermind Theory’ presented by the Petitioners falls squarely within the category of a defense that is required to be tested during the Trial.

**76.** The Petitioners’ contentions essentially entail conducting of a ‘mini-trial’ by evaluating the merits of their FIRs and the findings of the EOW investigation, to override the Complainant’s case. It is a settled principle that at the stage of summoning, the Ld. Magistrate is only required to see if a *prima facie* case is made out. The truthfulness of a defense, however plausible, is a matter for trial.

**77.** In view of the foregoing analysis, the grounds raised by the Petitioners involve disputed questions of fact, which can only be adjudicated after leading evidence during the trial.

**78.** Consequently, the Petitions, **CRL. M.C. NO. 2155/2025** and **CRL. M.C. NO. 2156/2025** are **dismissed**.



79. Any observations made herein are *prima facie* in nature and shall not influence the merits of the trial or the Revision proceedings pending before the Ld. Sessions Court.

80. Pending Applications, if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)  
JUDGE**

**JANUARY 29, 2026/N**