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

Reserved on: 27.07.2026
Pronounced on: 03.09.2026
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\# **CNR No. DLHC010330162026**

\+ **<u>CRL.M.C. 5220/2026 & CRL.M.As. 21919-20/2026</u>**

MONA JAIN .....Petitioner
Through: Mr. Akash Jandial, Advocate.

versus

M/S KAYCEE POLYMERS PVT. LTD. .....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>JUDGMENT</u>

1. By way of this petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks quashing of the summoning order dated 27.09.2025 in Complaint Case No. 1047/2025, passed by the Magistrate's Court, Karkardooma Courts, Delhi, and all criminal proceedings emanating therefrom against her.

2. The relevant facts giving rise to the present petition are as follows:

a. The petitioner is a director of M/S Monica Gold Pipes Pvt. Ltd. ["the Company"], a company incorporated under the Companies Act, 1956.

b. During the course of business, the Company purchased material from the respondent-company and, after making part-payments, a principal amount of Rs. 12,55,737/- remained allegedly outstanding and payable to the respondent.

c. In the month of December 2024, the petitioner, alongwith another Director of the Company, being Mr. Sanjeev Kumar Jain, who is her husband, issued four cheques drawn on ICICI Bank, Shalimar Bagh Branch, Delhi. Details of the concerned cheques are tabulated as follows:

Sr. No.	**Cheque No.**	**Cheque Date**	**Amount**
1.	000732	10.12.2024	Rs. 4,44,410/-
2.	000731	12.12.2024	Rs. 4,00,000/-
3.	000730	14.12.2024	Rs. 4,00,000/-
4.	000733	31.12.2024	Rs. 53,000/-

d. The first three cheques were dishonoured on 27.12.2024, however the fourth cheque was cleared.

e. The respondent thereafter duly issued a legal notice dated 08.01.2025. Pursuant to said legal notice, the Company approached the respondent to settle the matter and issued three fresh cheques drawn on Indian Bank, Baghpat Branch, Uttar Pradesh, but they were also dishonoured when presented. Details of the concerned cheques are tabulated as follows:

Sr. No.	**Cheque No.**	**Cheque Date**	**Amount**	**Date of dishonour**
1.	177029	15.03.2025	Rs.4,00,000/-	18.03.2025
2.	177030	17.03.2025	Rs.4,00,000/-	18.03.2025
3.	177032	20.03.2025	Rs.4,44,410/-	21.03.2025

f. Pursuant to this dishonour, the respondent issued another legal notice dated 08.04.2025, but no response was received.

g. Consequently, the respondent filed the subject complaint under Section 138 of the Negotiable Instruments Act, 1881 ["NI Act"], against the Company, and its directors, including the petitioner herein, who was arrayed as accused No. 2.

h. The Magistrate's Court took cognizance of the offence and issued the impugned summoning order dated 27.09.2025.

3. Mr. Akash Jandial, learned counsel for the petitioner, submitted that the complaint filed by the respondent does not make out the necessary grounds under Section 141 of the NI Act, to hold the petitioner vicariously liable for the Company's offences under Section 138 of the NI Act. Mr. Jandial drew my attention to the complaint to show that it only contains vague and general assertions, and is devoid of specific averments required to show that the offence was within the knowledge/consent of the petitioner. To this effect, he relied upon a judgment of the Supreme Court in *National Small Industries Corporation Limited v. Harmeet Singh Paintal & Anr.*[1].

4. Mr. Jandial further submitted that the petitioner was not concerned with the day-to-day affairs of the Company. He submits that the Magistrate's Court has erred in passing the impugned summoning order, as it failed to appreciate whether the petitioner was in any way connected to the alleged offence. He emphasises that the petitioner is not a signatory to the cheques in question.

5. Having heard Mr. Jandial and upon consideration of the material

on record, I am of the view that the present case does not warrant exercise of this Court's jurisdiction for quashing of the summoning order.

6. Section 141 of the NI Act, reads as follows:

> "*141. Offences by companies.—(1) If the person committing an offence under section 138 is a company, **every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company**, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*
>
> *Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:*
>
> *[Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]*
>
> *(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*
>
> *Explanation.—For the purposes of this section, —*
>
> *(a) "company" means any body corporate and includes a firm or other association of individuals; and*
>
> *(b) "director", in relation to a firm, means a partner in the firm.*"[2]

7. The Supreme Court in *Harmeet Singh Paintal*, laid down certain principles governing Section 141 of the NI Act, which are reproduced hereinbelow:

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

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[1] (2010) 3 SCC 330 [hereinafter, "*Harmeet Singh Paintal*"].
[2] Emphasis supplied.

(i) The primary responsibility is on the complainant to make specific averments as are required under the law in the complaint so as to make the accused vicariously liable. For fastening the criminal liability, there is no presumption that every Director knows about the transaction.

(ii) Section 141 does not make all the Directors liable for the offence. The criminal liability can be fastened only on those who, at the time of the commission of the offence, were in charge of and were responsible for the conduct of the business of the company.

(iii) ***Vicarious liability can be inferred against a company registered or incorporated under the Companies Act, 1956 only if the requisite statements, which are required to be averred in the complaint/petition, are made so as to make the accused therein vicariously liable*** *for offence committed by the company along with averments in the petition containing that the accused were in charge of and responsible for the business of the company and by virtue of their position they are liable to be proceeded with.*

(iv) Vicarious liability on the part of a person must be pleaded and proved and not inferred.

(v) If the accused is a Managing Director or a Joint Managing & Director then it is not necessary to make specific averment in the complaint and by virtue of their position they are liable to be proceeded with.

(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.

(vii) ***The person sought to be made liable should be in charge of and responsible for the conduct of the business of the company at the relevant time. This has to be averred as a fact as there is no deemed liability of a Director in such cases****."*[3]

8. The Supreme Court in the case of *S.P. Mani & Mohan Dairy v. Snehalatha Elangovan*[4], specifically discussed the scope of interference by High Courts against issuance of process, and also summarised the law in reference to Section 141 of the NI Act, as under:

"57. When in view of the basic averment process is issued the complaint must proceed against the Directors or partners as the case may be. But, ***if any Director or Partner wants the process to be quashed by filing a***

[3] Emphasis supplied.
[4] (2023) 10 SCC 685 [hereinafter, "*S.P. Maini & Mohan Dairy*"].

<u>petition under Section 482 of the Code on the ground that only a bald averment is made in the complaint and that he is really not concerned with the issuance of the cheque, he must in order to persuade the High Court to quash the process either furnish some sterling incontrovertible material or acceptable circumstances to substantiate his contention. He must make out a case that making him stand the trial would be an abuse of process of Court. He cannot get the complaint quashed merely on the ground that apart from the basic averment no particulars are given in the complaint about his role</u>, *because ordinarily the basic averment would be sufficient to send him to trial and it could be argued that his further role could be brought out in the trial. Quashing of a complaint is a serious matter. Complaint cannot be quashed for the asking. For quashing of a complaint, it must be shown that no offence is made out at all against the Director or partner.*

58. Our final conclusions may be summarised as under:

58.1. The primary responsibility of the complainant is to make specific averments in the complaint so as to make the accused vicariously liable. For fastening the criminal liability, there is no legal requirement for the complainant to show that the accused partner of the firm was aware about each and every transaction. On the other hand, the first proviso to sub-section (1) of Section 141 of the Act clearly lays down that if the accused is able to prove to the satisfaction of the Court that the offence was committed without his/her knowledge or he/she had exercised due diligence to prevent the commission of such offence, he/she will not be liable of punishment.

58.2. ***<u>The complainant is supposed to know only generally as to who were in charge of the affairs of the company or firm, as the case may be. The other administrative matters would be within the special knowledge of the company or the firm and those who are in charge of it.</u>*** *In such circumstances, the complainant is expected to allege that the persons named in the complaint are in charge of the affairs of the company/firm. It is only the Directors of the company or the partners of the firm, as the case may be, who have the special knowledge about the role they had played in the company or the partners in a firm to show before the Court that at the relevant point of time they were not in charge of the affairs of the company.* ***<u>Advertence to Sections 138 and Section 141, respectively, of the NI Act shows that on the other elements of an offence under Section 138 being satisfied, the burden is on the Board of Directors or the officers in charge of the affairs of the company/partners of a firm to show that they were not liable to be convicted.</u>*** *The existence of any special circumstance that makes them not liable is something that is peculiarly within their knowledge and it is for them to establish at the trial to show that at the relevant time they were not in charge of the affairs of the company or the firm.*

58.3. Needless to say, ***<u>the final judgment and order would depend on the evidence adduced.</u>*** *Criminal liability is attracted only on those, who at the time of commission of the offence, were in charge of and were responsible for the conduct of the business of the firm. But vicarious criminal liability can be inferred against the partners of a firm when it is specifically averred in the complaint about the status of the partners "qua" the firm. This would make them liable to face the prosecution but it does not lead to automatic conviction. Hence, they are not adversely prejudiced if they are eventually found to be not guilty, as a necessary consequence thereof would be acquittal.*

58.4. If any Director wants the process to be quashed by filing a petition under Section 482 of the Code on the ground that only a bald averment is made in the complaint and that he/she is really not concerned with the issuance of the cheque, he/she must in order to persuade the High Court to quash the process either furnish some sterling incontrovertible material or acceptable circumstances to substantiate his/her contention. He/she must make out a case that making him/her stand the trial would be an abuse of process of Court."[5]

9. Having regard to the above, the determinative question is whether the complaint contains the requisite factual averments to fasten vicarious liability upon the petitioner under Section 141 of the NI Act and, if so, whether the petitioner has placed on record any sterling, incontrovertible, or unimpeachable material demonstrating that she could not have been concerned with the transactions in question so as to warrant quashing of the proceedings.

10. It is therefore necessary to examine the specific averments made against the petitioner in the complaint. For this purpose, the relevant extracts from the complaint are reproduced hereinbelow:

"*2. That the Accused no. 1 is a private limited company incorporated under the provisions of companies Act, 1956/2013 and the* ***<u>Accused Nos. 2 & 3 are the Directors of the Accused no. 1 and are in-charge of looking after the day to day affairs of the firm and have been personally involved in the dealings made by the accused with the complainant</u>****.*

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[5] Emphasis supplied.

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*4. That the **<u>Accused No. 2 & 3 had purchased material, on behalf of Accused no. 1, from the complainant</u>** and after making certain part payments the principal due amount outstanding and payable to the complainant, stood at Rs. 12,55,737/-.*

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*7. That finally in the month of December, 2024 **<u>the accused nos. 2 & 3 had issued Cheque bearing no. 000732 dated 10.12.2024</u>** for the sum of Rs.4,44,410/-, 000731 dated 12.12.2024 for the sum of Rs.4,00,000/-, 000730 dated 14.12.2024 for the sum of Rs.4,00,000/- and 000733 dated 31.12.2024 for the sum of Rs.53,000/-, drawn on ICICI Bank, Shalimar Bagh Branch, Delhi in the complainant's favour with the assurance that the same would be cleared, but so did not happen.*

*8. **<u>That based on the instructions of the accused nos. 2 & 3 and trusting the intentions for payment of the due amount, the complainant deposited cheques</u>** bearing nos. 000732, 000731 and 000730 and Shockingly, the same were returned unpaid to the complainant due to the reason "payment stopped by drawer" in cheques no. 000732 and 000731 and "Funds Insufficient" in cheque no. 000730.*

9. That the said fact was informed to the accused and the complainant was assured that there was some default on the part of the bank and requested the complainant to redeposit the cheques after 10 days with the assurance that the same would be cleared.

*10. That **<u>trusting the intentions and assurances of the accused, the complainant deposited the cheques</u>** with its banker on 26.12.2024 and was shocked to learn that the same were dishonored by the bank for the same reasons as mentioned in para 8 supra. The dishonored slips are dated 27.12.2024. 000731 and 000730 and Shockingly, the same were returned unpaid to the complainant due to the reason "payment stopped by drawer" in cheques no. 000732 and 000731 and "Funds Insufficient" in cheque no. 000730.*

11. That thereafter the dishonourment was communicated to the accused and was given further false assurances that the due amount would be paid to the complainant at the earliest. In lieu of the same the accused requested the complainant to deposit the fourth cheque bearing no. 000733 for the sum of Rs. 53,000/- and the same got cleared.

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*13. That having failed to recover the due amount and after the dishonourment of the aforementioned cheque, the complainant through counsel issued a legal notice to the accused which was dispatched on 08.01.2025. On receipt of the same, **<u>the accused approached the</u>***

complainant and offered to settle the matter and issued fresh cheques. *These cheques were issued with yet another assurance that the same would be honored on being presented for clearance.*

14. That the accused categorically acknowledged its liability in letter dated 01.02.2025 and also assured the complainant that the fresh cheques issued would certainly be honored. The accused also promised to pay the remaining interest component to the complainant.

15. That the ***accused nos. 2 & 3 had issued Cheque bearing no. 177029 dated 15.03.2025 for the sum of Rs.4,00,000/-, 177030 dated 17.03.2025 for the sum of Rs.4,00,000/-, and 177032 dated 20.03.2025 for the sum of Rs.4,44,410/-,*** *drawn on Indian Bank, Baghpat Branch, Uttar Pradesh in the complainant's favour* ***with the assurance that the same would be cleared, but so did not happen***.

16. ***That based on the instructions of the accused nos. 2 & 3 and trusting the intentions for*** *payment of the due amount, the complainant deposited cheques bearing nos. 177029 and 177030 on 17.03.2025 and were returned as dishonored on 18.03.2025, the same was communicated to the accused and the accused requested for yet another opportunity and requested the complainant to deposit the cheque dated 20.03.2025 or, its date with the assurance that the same would be honored and these amounts would also be cleared. However, so did not happen and all the cheques were returned as dishonored to the complainant vide return memos dated 18.03.2025 and 21.03.2025 respectively.*

17. That the reasons for the dishonorment as mentioned in the return memos are Funds Insufficient and PPS not confirmed. Dishonourment Owing to PPS not confirmed is also attributable to the accused as instructions were not given by the accused to the bank."[6]

11. A perusal of the aforesaid averments shows that the complainant has specifically alleged that Accused No. 2 [petitioner herein] and Accused No. 3 [Mr. Sanjeev Kumar Jain] were directors of the Company, and were "*in-charge of looking after the day to day affairs*" thereof. The complaint further alleges that they were "*personally involved in the dealings*" with the complainant and specifically attributes to them the purchase of material on behalf of the Company, issuance of the cheques

[6] Emphasis supplied.

in question, instructions for their presentation, assurances extended upon their dishonour, and issuance of fresh cheques towards discharge of the outstanding liability. Thus, the complaint does not merely proceed on the basis of the petitioner's designation as a director, but contains specific averments concerning her alleged involvement in the transactions forming the subject matter of the complaint.

12. The petitioner has, on the other hand, not placed on record any sterling, incontrovertible, or unimpeachable material demonstrating that she could not have been concerned with the transactions forming the subject matter of the complaint. Her plea that she was not involved in the day-to-day affairs of the Company, therefore, raises a disputed question of fact, particularly in view of the specific averments to the contrary contained in the complaint. She was not an independent or non-executive director of the Company. Whether the petitioner was, in fact, in charge of and responsible for the conduct of the business of the Company, and whether the specific acts attributed to her are ultimately established, are matters which would have to be determined on the basis of evidence at trial.

13. It is also relevant that, as per the master data of the Company, the petitioner was one of the only two directors of the Company. This circumstance, considered alongside the specific averments contained in the complaint and in the absence of any unimpeachable material to the contrary, makes this a fit case for trial to proceed against the petitioner also.

14. The contention that the petitioner was not a signatory to the cheques also does not, by itself, warrant quashing of the proceedings. A

non-signatory director may nevertheless be proceeded against where the complaint contains the requisite averments showing that such person was in charge of and responsible for the conduct of the business of the Company at the relevant time. In the present case, as noticed above, the complaint contains such averments and further attributes specific acts to the petitioner in relation to the transactions in question.

15. In view of the aforesaid, the petition, alongwith the pending applications, is dismissed.

PRATEEK JALAN, J

SEPTEMBER 3, 2026
SS/AD/