2026 INSC 324

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(@ Special Leave Petition (Crl.) No. 21322 of 2025)

SAROJ PANDEY **...APPELLANT(S)**

VERSUS

GOVT. OF NCT OF DELHI AND ORS **...RESPONDENT(S)**

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The appellant is aggrieved by the High Court of Delhi's refusal to exercise its inherent powers under Section 482, Code of Criminal Procedure, 1973, in terms of order dated 7th August 2025 passed and Criminal MC No.8110/2023 and Criminal M.A. No.30210/2023 to quash the summoning order issued by the Metropolitan Magistrate, in connection with complaint CC NI

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Date: 2026.04.07 14:22:29 IST
Reason:

Act 12597/2021 under Sections 138 and 142 of the Negotiable Instruments Act, 1881[1], as confirmed as a consequence of the dismissal of CR No. 115/2023 by the Additional Sessions Judge, Dwarka Courts .

3. The facts of the matter are that the appellant is one of the Directors of the accused Company namely Projtech Engineering Private Limited. The accused Company issued cheques, three in number, all dated 20th April 2021worth 15 lacs, 20 lacs and 15 lacs each, as payment for supply of iron and steel. Despite confirmation from the accused Company of availability of funds at the time of deposit of cheques, the same were returned unpaid. The reason therefor was:

> "DRAWERS SIGNATURES DIFFERS AND ALTERNATIONS/CORRECTIONS ON INSTRUMENTS OTHER THAN DATE"

Legal notice in this connection was sent on 12th May 2021 through counsel and on 18th May 2021, through '*speed post*'. The proceedings under the N.I. Act were initiated on 25th June 2021. By order dated 23rd September 2021, MM(NI-Act) Dwarka Courts, New Delhi, issued summons and put up the matter for appearance of the accused on 15th December 2021.

4. In revision proceedings, the present appellant was the second revisionist. The ground for rejecting the revision was that she was the Director of the Company and she had also signed a

[1] 'NI Act'

Board Resolution which, as per the Court, *ipso facto* evidenced a fact that she was involved in the day-to-day management of the affairs of the Company.

5. In the High Court, similar reasoning was adopted. Moreover, it was observed that when revision has been preferred a petition under Section 482 CrPC on the same grounds, is circumscribed to a much narrower jurisdiction. The petition was as such dismissed.

6. The law with regard to prosecutions under Section 138 of the N.I. Act is generally well settled. This Court has, on numerous occasions considered the scope of prosecutions thereunder as also under Section 141 of the N.I. Act. (*See*: ***N. Vijay Kumar v. Vishwanath Rao N.***[2]) The only aspect that we have to consider is whether the appellant is indeed conversant with the day-to-day management of the Company, thereby justifying the issuance of summons to her. Section 141 of N.I. Act reads as under:

> ”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

[2] 2025 SCC OnLine SC 873

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 financialcorporation 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."

7. A bench of three judges in ***S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla***[3], crystallised the law on the point. The relevant extract is as follows:

"**19.** In view of the above discussion, our answers to the questions posed in the reference are as under:

(*a*) It is necessary to specifically aver in a complaint under Section 141 that at the time the offence was committed, the person accused was in charge of, and responsible for the conduct of business of the company. This averment is an essential requirement of Section 141 and has to be made in a complaint. Without this averment being made in a complaint,

[3] (2005) 8 SCC 89

> the requirements of Section 141 cannot be said to be satisfied.
>
> (*b*) The answer to the question posed in sub-para (*b*) has to be in the negative. Merely being a director of a company is not sufficient to make the person liable under Section 141 of the Act. A director in a company cannot be deemed to be in charge of and responsible to the company for the conduct of its business. The requirement of Section 141 is that 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.
>
> ... … …"

In ***Gunmala Sales (P) Ltd. v. Anu Mehta***[4], the Court concluded as follows regarding proceedings under Section 138 NI Act:

> **"34.** We may summarise our conclusions as follows:
> **34.1.** Once in a complaint filed under Section 138 read with Section 141 of the NI Act the basic averment is made that the Director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed, the Magistrate can issue process against such Director.
> … … …
>
> **34.3.** In the facts of a given case, on an overall reading of the complaint, the High Court may, despite the presence of the basic averment, quash the complaint because of the absence of more particulars about the role of the Director in the complaint. It may do so having come across some unimpeachable, incontrovertible evidence which is beyond suspicion or doubt or totally acceptable circumstances which may clearly indicate that the Director could not have been concerned with the issuance of cheques and asking him to stand the trial would be abuse of process of court. Despite the presence of basic

[4] (2015) 1 SCC 103

averment, it may come to a conclusion that no case is made out against the Director. Take for instance a case of a Director suffering from a terminal illness who was bedridden at the relevant time or a Director who had resigned long before issuance of cheques. In such cases, if the High Court is convinced that prosecuting such a Director is merely an arm-twisting tactics, the High Court may quash the proceedings. It bears repetition to state that to establish such case unimpeachable, incontrovertible evidence which is beyond suspicion or doubt or some totally acceptable circumstances will have to be brought to the notice of the High Court. Such cases may be few and far between but the possibility of such a case being there cannot be ruled out. In the absence of such evidence or circumstances, complaint cannot be quashed.

34.4. No restriction can be placed on the High Court's powers under Section 482 of the Code. The High Court always uses and must use this power sparingly and with great circumspection to prevent inter alia the abuse of the process of the court. There are no fixed formulae to be followed by the High Court in this regard and the exercise of this power depends upon the facts and circumstances of each case. The High Court at that stage does not conduct a mini trial or roving inquiry, but nothing prevents it from taking unimpeachable evidence or totally acceptable circumstances into account which may lead it to conclude that no trial is necessary qua a particular Director."

[See also: ***Hitesh Verma v. Health Care at Home (India) (P) Ltd***.[5],; ***K.S. Mehta v. Morgan Securities & Credits (P) Ltd.***[6]]

8. In the instant case the substance of establishing the appellant's day-to-day involvement in the affairs of the Company is that she had signed the Board Resolutions. To say the least, the

[5] (2025) 7 SCC 623
[6] (2025) 7 SCC 615

same is not inspiring in confidence because a Board Resolution is a document that is signed by the members of the Board of Directors for decisions taken or conclusions arrived at for matters placed before the Board for consideration and decision. This may be *inter alia* regarding hiring of personnel at management levels, acquisition or liquidation of assets affecting the overall position of the assets and liabilities of the Company or any other such major directional issue. This, however, does not in any manner mean that each and every member of the Board of Directors is aware of all decisions taken in the everyday transactions that are involved in running a business concern. That apart, there is not even as much as a whisper of direct allegation against the present appellant in the complaint made which, as per the judgment referred to immediately hereinabove is the *sine qua non* for Section 141 N.I. Act to be attracted – "*accused was in charge of, and responsible for the conduct of business of the company.*"

9. As an aside, we consider the statement of law expressed by the High Court to the effect that once a petition under Section 397 Cr.PC has been entertained, irrespective of its end result, a subsequent petition under Section 482 Cr.PC on the same grounds limits the jurisdiction of the latter and in ordinary course matters, such as the present one, are liable to be dismissed on this short ground alone.

10. This question was determined by a bench of three judges in ***Krishnan & Anr. v. Krishnaveni & Anr***[7] with reference to earlier decision of this Court in ***Madhu Limaye v. State of Maharashtra***[8] and ***V.C Shukla v. State through CBI***[9] as follows:

> "**14.** In view of the above discussion, we hold that though the revision before the High Court under sub-section (1) of Section 397 is prohibited by sub-section (3) thereof, inherent power of the High Court is still available under Section 482 of the Code and as it is paramount power of continuous superintendence of the High Court under Section 483, the High Court is justified in interfering with the order leading to miscarriage of justice and in setting aside the order of the courts below…"

Holding to a similar effect has been given in ***Dhariwal Tobacco Products Ltd. v. State of Maharashtra***[10]**,** which has been followed and affirmed in ***Prabhu Chawla v. State of Rajasthan***[11]**.** The relevant extract of the former is as follows:

> **"6.** Indisputably issuance of summons is not an interlocutory order within the meaning of Section 397 of the Code. This Court in a large number of decisions beginning from *R.P. Kapur* v. *State of Punjab* [AIR 1960 SC 866] to *Som Mittal* v. *Govt. of Karnataka* [(2008) 3 SCC 574 : (2008) 2 SCC (Cri) 1 : (2008) 1 SCC (L&S) 910] has laid down the criterion for entertaining an application under Section 482. Only because a revision petition is maintainable, the same by itself, in our considered opinion, would not constitute a bar for entertaining an application under Section 482 of the Code. Even where a revision application is barred, as for example the remedy by way of Section 115 of the Code of Civil Procedure, 1908, this Court has held

[7] (1997) 4 SCC 241
[8] (1977) 5 SCC 551
[9] 1980 Supp. SCC 92
[10] (2009) 2 SCC 370
[11] (2016) 16 SCC 30

> that the remedies under Articles 226/227 of the Constitution of India would be available. (See *Surya Dev Rai* v. *Ram Chander Rai* [(2003) 6 SCC 675] .) Even in cases where a second revision before the High Court after dismissal of the first one by the Court of Session is barred under Section 397(2) [**Ed.**: The intended provision seems to be Section 397(3). In this regard *See* (1) *Krishnan* v. *Krishnaveni*, (1997) 4 SCC 241 : 1997 SCC (Cri) 544; (2) *Puran* v. *Rambilas*, (2001) 6 SCC 338 : 2001 SCC (Cri) 1124; (3) *Kailash Verma* v. *Punjab State Civil Supplies Corpn.*, (2005) 2 SCC 571 : 2005 SCC (Cri) 538.] of the Code, the inherent power of the Court has been held to be available.
>
> **7.** …The inherent power of the High Court is not conferred by statute but has merely been saved thereunder. It is, thus, difficult to conceive that the jurisdiction of the High Court would be held to be barred only because the revisional jurisdiction could also be availed of.
>
> (See *Krishnan* v. *Krishnaveni* [(1997) 4 SCC 241 : 1997 SCC (Cri) 544] .)"

11. In that view of the matter, we also find fault with the statement of law as stated by the High Court in the impugned judgment and set aside the same on both the counts. The proceedings against the instant appellant namely Saroj Pandey, shall stand quashed and set aside. It is clarified that any observation made herein is for the limited purpose of consideration of her case only and have no bearing or impact on the trial of the co-accused persons. The appeal is allowed to aforesaid extent.

Pending application(s), if any, shall stand disposed of.

……..J.
(SANJAY KAROL)

……..J.
(AUGUSTINE GEORGE MASIH)

New Delhi;
April 7, 2026