IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 01.04.2025

\+ **CRL.M.C. 3896/2022 & CRL.M.A. 16235/2022**

SUNAV STEEL PRIVATE LIMITED & ORS. ..... Petitioner

versus

STATE OF NCT OF DELHI THROUGH STANDING COUNSEL & ANR. ..... Respondent

Advocates who appeared in this case:

For the Applicant : Mr. Pramod Kr. Dubey, Sr. Advocate with Mr. Rinku Garg, Mr. Kunal Narang, Mr. Manik Bhalla, Mr. Prashant, Mr. Piyush Joshi, Ms. Pinky Dubey, Mr. Jitendra Kumar, Mr. Kaustubh Chouhan, Mr. Prince Kumar & Mr. Ayush Sachan, Advocates.

For the Respondent : Mr. Manoj Pant, APP for the State.
Mr. Amol Sharma, Adv. for R2

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition has been filed seeking quashing of Complaint Case No. 14726/2017 pending before the learned Metropolitan Magistrate ('**MM**'), Central District, Tis Hazari Courts, Delhi, for offence under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 ('**NI Act**').

2. The petitioners further seek quashing of the summoning order dated 02.07.2018 (hereafter '**the impugned order**') passed in the said complaint.

Brief facts:

3. The petitioner company, Sunav Steel Private Limited & Ors., is engaged in the business of sale, purchase, export, import, and trade of iron and steel. The petitioner company, through its directors – Petitioner Nos. 2 and 3 had initially availed credit facilities from Yes Bank, with a sanctioned limit of ₹7.5 crore.

4. By way of sanction letter dated 20.06.2013, Respondent No.2/HDFC Bank Ltd. agreed to take over the loan account from Yes Bank on more favourable terms and sanctioned an enhanced credit facility of ₹10 crore to the petitioner company to meet its working capital requirements.

5. In pursuance of the said arrangement, Respondent No.2 transferred ₹7.5 crore to Yes Bank to square off the petitioner's outstanding dues. In exchange, HDFC Bank requested Yes Bank to release the security documents, including title deeds of immovable properties mortgaged by the petitioner company, upon due discharge.

6. In terms of the sanctioned facility, the petitioners pledged various assets and also issued a Cheque bearing no. 850489 ('**subject cheque**') drawn on Yes Bank for a sum of ₹7.5 crore as security towards the repayment of the financial assistance extended by Respondent No.2.

7. The credit facility was renewed, modified, or enhanced from time to time by HDFC Bank through subsequent sanction letters. However, Petitioner No.1 company failed to maintain financial discipline and defaulted in making payments of the said credit facilities. On 29.04.2017, the petitioners' account was classified as a Non-Performing Asset (NPA) by Respondent No.2 in terms of the RBI guidelines.

8. Consequently, by notice dated 31.07.2017, Respondent No.2 recalled the credit facilities under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('**SARFAESI Act**').

9. Thereafter, since no payment for forthcoming, Respondent No.2 presented Cheque No. 850489, drawn on the petitioners' Yes Bank account towards discharge of the liability. The cheque was returned unpaid with the endorsement 'Account Closed' as per the return memo dated 07.09.2017.

10. Following the dishonour of the cheque, Respondent No.2 filed a complaint under Section 138 of the NI Act, alleging that the petitioners had failed to discharge their financial obligations in accordance with the terms of the loan arrangement.

11. In parallel, Respondent No.2 also invoked proceedings under the SARFAESI Act for recovery of the outstanding dues.

12. Pursuant to the complaint filed under Section 138 of the NI Act, the learned Metropolitan Magistrate, Tis Hazari Courts, Delhi, *vide*

order dated 02.07.2018, took cognizance and issued summons to the petitioners to appear before the Court.

13. In response to the said summons, the petitioner company, through its directors, appeared before the Court on 16.02.2019 and were admitted to bail.

14. Thereafter, on 20.05.2019, the petitioners moved an application seeking discharge from the proceedings pending before the learned Metropolitan Magistrate. However, the said application was dismissed by order dated 25.07.2022.

15. Aggrieved by the summoning order dated 02.07.2018 and the continuation of criminal proceedings arising from the complaint under Section 138 of the NI Act, the petitioners have approached this Court by way of the present petition seeking quashing of the complaint and all proceedings emanating therefrom.

Submissions

16. The learned senior counsel for the petitioners submitted that the subject cheque was issued for security purpose and not towards an actual outstanding liability. Since the cheque was not issued in discharge of a legally enforceable debt at the time of its presentation, no offence under Section 138 of the NI Act is made out.

17. The learned senior counsel contended that the sanction letter dated 20.06.2013 specifically required Petitioner No.1 to close all accounts maintained with Yes Bank. In compliance with this condition, the petitioners had stopped using the said account. Despite this, Respondent No.2 chose to present a cheque from an account that

was not meant to be operational, knowing fully well that the cheque would not be honoured. The learned counsel submitted that there was no 'liability' or 'debt' as on the date when the cheque was deposited.

18. It was argued that Section 138 of the NI Act requires dishonest intent on the part of the drawer. In the present case, the petitioners had already provided sufficient security in the form of six immovable properties. The failure to honour the cheque was due to contractual obligations requiring the closure of the Yes Bank account, and not due to any intention to defraud.

19. The learned senior counsel submitted that since the petitioners have already deposited the titled documents of six properties with Respondent No.2, and Respondent No.2 has already initiated SARFAESI proceedings to recover the outstanding amounts therefore, the subject cheque, on the basis of which the criminal complaint is predicated, could not have been cleared.

20. *Per contra*, the learned counsel for Respondent No.2, opposing the petition, argued that the subject cheque was issued by the petitioners in discharge of a legally enforceable debt and its dishonour squarely attracts liability under Section 138 of the NI Act. It was submitted that the petitioners had availed substantial financial assistance from Respondent No.2, and in furtherance of their obligation, they had issued the subject cheque as a payment instrument. The dishonour of the cheque on the ground of 'Account Closed' indicates a clear failure on the part of the petitioners to fulfill their financial commitment. It was contended that the issuance of a

cheque creates a presumption under Section 139 of the NI Act that it was drawn towards a legally enforceable debt or liability, and the burden to rebut this presumption lies upon the petitioners.

21. The learned counsel submitted that Section 138 of the NI Act applies even if the account is closed, since it implies that the cheque was returned unpaid because the drawer's account lacked sufficient funds to honour the cheque.

22. The learned counsel further argued that the initiation of SARFAESI proceedings does not preclude the continuation of criminal proceedings under Section 138 of the NI Act. It was contended that both statutory remedies operate in independent legal spheres.

23. The learned counsel also contested the petitioners' argument that the cheque was issued merely as a security instrument. It was submitted that at the time of issuance, the cheque represented an actual and existing liability of the petitioners towards the outstanding dues. The contention that the petitioners had to close their Yes Bank account as per the sanction letter was termed an afterthought and an attempt to evade liability. The same is a disputed question of fact and a matter of trial.

24. Lastly, the learned counsel submitted that the summoning order passed by the learned MM was passed after due application of judicial mind. It was argued that the petitioners have an opportunity to defend themselves during the trial, and quashing the proceedings at the

preliminary stage would be against the settled legal principles governing complaints under the NI Act.

Analysis

25. At the outset, it is relevant to note that the inherent jurisdiction of the Court under Section 482 of the CrPC ought to be exercised sparingly especially when the matter is at the stage of issuance of summons as the same has the effect of scuttling the proceedings without the parties having an opportunity to adduce the relevant evidence. The Hon'ble Apex Court, in the case of ***Rathish Babu Unnikrishnan v. State (NCT of Delhi)*** **: 2022 SCC OnLine SC 513**, adverting to a catena of judgments, had underscored the parameters for exercising inherent jurisdiction to quash the proceedings at the stage of the summoning order. The relevant portion of the impugned order is reproduced hereunder:

> **"*14.*** *The parameters for invoking the inherent jurisdiction of the Court to quash the criminal proceedings under S.482 CrPC, have been spelled out by Justice S. Ratnavel Pandian for the two judges' bench in* ***State of Haryana v. Bhajan Lal*** *[1992 Supp (1) SCC 335 : AIR 1992 SC 604], and the suggested precautionary principles serve as good law even today, for invocation of power under Section 482 of the Cr.P.C.*
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> > *'****103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice****.'*

15. *In the impugned judgment, the learned Judge had rightly relied upon the opinion of Justice J.S. Khehar for a Division Bench in* ***Rajiv Thapar*** *(supra), which succinctly express the following relevant parameters to be considered by the quashing Court, at the stage of issuing process, committal, or framing of charges,*

> *'****28.*** *The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are.* ***Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same.*** *'*

16. *The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter.* ***What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.***

17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. *If this is allowed, the accused may be given an un-merited advantage in the criminal process.* ***Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.***

> ***18.*** *Situated thus, to non-suit the complainant, at the stage of the summoning order, when the factual controversy is yet to be canvassed and considered by the trial court will not in our opinion be judicious. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial Court.* ***Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited****."*
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> (emphasis supplied)

26. In the present case, Respondent No.2 had filed a complaint under Section 138 of the NI Act. The learned MM relying upon the complaint supported by the affidavit of the complainant, took cognizance under Section 138 of the NI Act, and passed the summoning order dated 02.07.2018.

27. As discussed above, the allegations made in the complaint, at the stage when the complaint is sought to be quashed at the outset, are to be taken as correct unless evidence of unimpeachable character has been produced.

28. It is apposite to examine the specific contentions raised by learned counsel for the petitioners. The arguments, as urged, are considered and dealt with as under :

Whether the subject cheque was issued in discharge of a Legally Enforceable Debt

29. The learned senior counsel for the petitioners argued that the subject cheque was issued as a security instrument and not towards an immediately enforceable debt. He contended that the cheque was given to Respondent No.2 Bank to secure the transfer of title deeds

from Yes Bank, and once the title deeds were transferred, the subject cheque ceased to carry any legal force.

30. However, this argument cannot be accepted at this stage. The subject cheque was given on 20.06.2013, the same date on which the sanction letter was issued. The petitioners assert that the Yes Bank account was closed as per the sanction terms. However, if that were so, the closure of the account and the alleged understanding regarding the cheque are matters requiring proof. Whether the account stood closed on the date of issuance, or thereafter, and whether there existed any agreement restricting encashment of the cheque, are disputed questions of fact, which can only be adjudicated during the trial.

31. The cheque was presented for partial discharge of an admitted liability and was dishonoured with the return memo dated 07.09.2017 stating 'Account Closed'. In such circumstances, Section 138 of the NI Act is clearly attracted.

32. In ***NEPC Micon Ltd. v. Magma Leasing Ltd.*** **: (1999) 4 SCC 253**, the Hon'ble Apex Court held that :

> ***6.*** *From Section 138, it is apparent that*
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> *(i) The cheque should be drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of "that account".*
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> *(ii) The cheque should be returned by the bank unpaid either because:*
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> *(a) the amount of money standing to the credit of that account is insufficient to honour the cheque; or*
>
> *(b) it exceeds the amount arranged to be paid from that account by a person with the bank.*
>
> *(iii) In such a situation, such person (drawer of cheque) shall be deemed to have committed an offence.*

> ***7.*** *Further, the offence will be complete only when the conditions in provisos (a), (b) and (c) are complied with. Hence, the question is, in a case where a cheque is returned by the bank unpaid on the ground that the "account is closed", would it mean that the cheque is returned as unpaid on the ground that "the amount of money standing to the credit of that account is insufficient to honour the cheque"? In our view, the answer would obviously be in the affirmative because the cheque is dishonoured as the amount of money standing to the credit of "that account" was "nil" at the relevant time apart from it being closed. Closure of the account would be an eventuality after the entire amount in the account is withdrawn. It means that there was no amount in the credit of "that account" on the relevant date when the cheque was presented for honouring the same. The expression "the amount of money standing to the credit of that account is insufficient to honour the cheque" is a genus of which the expression "that account being closed" is a specie. After issuing the cheque drawn on an account maintained, a person, if he closes "that account" apart from the fact that it may amount to another offence, it would certainly be an offence under Section 138 as there was insufficient or no fund to honour the cheque in "that account". Further, the cheque is to be drawn by a person for payment of any amount of money due to him "on an account maintained by him" with a banker and only on "that account" the cheque should be drawn. This would be clear by reading the section along with provisos (a), (b) and (c).*
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> ***8.*** *Secondly, proviso (c) gives an opportunity to the drawer of the cheque to pay the amount within 15 days of the receipt of the notice as contemplated in proviso (b). Further, Section 140 provides that it shall not be a defence in prosecution for an offence under Section 138 that the drawer has no reason to believe when he issued the cheque that the cheque may be dishonoured on presentment for the reasons stated in that section. Dishonouring the cheque on the ground that the account is closed is the consequence of the act of the drawer rendering his account to a cipher. Hence, reading Sections 138 and 140 together, it would be clear that dishonour of the cheque by a bank on the ground that the account is closed would be covered by the phrase "the amount of money standing to the credit of that account is insufficient to honour the cheque".*
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> (*emphasis* supplied)

33. It is well-settled law that the presumption under Section 139 of the NI Act, applies once the execution of the subject cheque is

undisputed. The burden is on the drawer to rebut the presumption that the cheque was issued for a legally enforceable debt or liability which is required to be established during trial.

34. The Hon'ble Apex Court in ***Bir Singh v. Mukesh Kumar* : (2019) 4 SCC 197** held that once a cheque is issued and signed, the presumption under Section 139 of the NI Act operates unless the drawer produces unimpeachable evidence to rebut it. The same is a matter of trial. The mere fact that the cheque was labelled as 'security' does not *ipso facto* absolve the drawer from liability under Section 138 of the NI Act.

35. In the present case, the petitioners contended that the subject cheque was in the nature of security and not against an accrued or existing liability at the time of its issuance. According to the petitioners, the cheque was provided solely to secure the transfer of title deeds from Yes Bank to Respondent No.2 and was not intended to be presented for encashment. It is further submitted that upon the successful transfer of those title deeds, the underlying purpose of the cheque stood extinguished, and as such, its dishonour cannot attract penal consequences under Section 138 of the NI Act.

36. The learned counsel for the petitioners further submitted that upon transfer of the said secured assets to Respondent No.2, the cheque ceased to have any operative effect, as the liability it was meant to secure no longer subsisted. Thus, its dishonour—after the object had allegedly been served — ought to be treated as inconsequential.

37. However, it is well-established that the mere existence of alternative security does not, by itself, discharge the liability associated with a negotiable instrument. For a cheque to be rendered inoperative due to the furnishing of such security, there must be a clear and express agreement between the parties stating that the cheque shall not be presented or that its legal efficacy shall stand extinguished. In the absence of such express understanding, the cheque retains its character and enforceability under law.

38. In the present case, no material has been placed on record to prima facie demonstrate that Respondent No.2 had agreed not to present the cheque after receipt of the title deeds. In the absence of such evidence, the liability under the subject cheque cannot be said to have been extinguished, and the consequences of its dishonour must follow the mandate of law—subject, of course, to the findings at trial.

39. It is a settled position in law that the mere characterization of a cheque as a 'security cheque' does not by itself preclude the operation of Section 138 of the NI Act, especially when the cheque has been presented and dishonoured in the course of an ongoing financial obligation between the parties.

40. This Court, in the case ***Suresh Chandra Goyal v. Amit Singhal*** **: 2015 SCC OnLine Del 9459** had an occasion to deal in detail with the circumstances where the debt in question can be interpreted to be owed by the accused to the complainant for the purpose of Section 138 of the NI Act. The Court interpreted the term legally enforceable debt when the cheques are issued as a security. It was held that the

expression security cheque is not a statutorily defined expression in the Act. There can be a situation where the cheques are given to provide an assurance or comfort to the drawee that in case of failure to pay the primary consideration on the due date, the security may be enforced. It was held as under :

> *"50. In Indus Airways Pvt. Ltd. v. Magnum Aviation Pvt. Ltd., IV (2014) SLT 321, the question that arose for consideration before the Supreme Court was, whether the post dated cheques issued by the appellants (purchasers) as an advance payment in respect of purchase orders could be considered in discharge of a legally enforceable debt or other liability and, if so, whether the dishonour of such cheques amount to an offence under Section 138 of NI Act. The appellants before the Supreme Court were the purchasers who had placed purchase orders and issued post dated cheques in favour of the respondent towards advance payment. One of the terms and conditions of the contract was that the entire payment would be made to the supplier in advance. The supplier claimed that the advance payment had to be made, as it had to procure the parts from abroad. The cheques were dishonoured upon presentation on the ground that the purchasers had stopped payment. Thereafter, the purchasers cancelled the purchase orders and requested for return of the cheques. The respondent/seller insisted on collecting payment and initiated a complaint under Section 138 of NI Act after sending a demand notice.*
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> *51. This Court, following its decision in Moji Engineering Systems Ltd. v. A.B. Sugars Ltd., 154 (2008) DLT 579, held that the issuance of a cheque at the time of signing such a contract has to be considered against a liability, as the amount written in the cheque is payable by the person on the date mentioned in the cheque.*
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> *xxxx xxxx xxxx*
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> *61. Thus, in my view, it makes no difference whether, or not, there is an express understanding between the parties that the security may be enforced in the event of failure of the debtor to pay the debt or discharge other liability on the due date. Even if there is no such express agreement, the mere fact that the debtor has given a security in the form of a post dated cheque or a current cheque with the agreement that it is a security for fulfillment of an*

obligation to be discharged on a future date itself, is sufficient to read into the arrangement, an agreement that in case of failure of the debtor to make payment on the due date, the security cheque may be presented for payment, i.e. for recovery of the due debt. If that were not so, there would be no purpose of obtaining a security cheque from the debtor. A security cheque is issued by the debtor so that the same may be presented for payment. Otherwise, it would not be a security cheque. As observed above, the MOU (Ex.CW-1/4) does not expressly, or even impliedly states that the security cheques are not to be used to recover the installments, even in case of failure to pay the same by the respondent/debtor.

62. Section 138 of NI Act does not distinguish between a cheque issued by the debtor in discharge of an existing debt or other liability, or a cheque issued as a security cheque on the premise that on the due future date the debt which shall have crystallized by then, shall be paid. So long as there is a debt existing, in respect whereof the cheque in question is issued, in my view, the same would attract Section 138 of NI Act in case of its dishonour."

41. Further, the Hon'ble Apex Court in ***HMT Watches Ltd. Vs. M.A. Abida*** **: (2015) 1 SCC 776** held as under :

"10.....Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under Section 482 the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter, which were not admitted between the parties."

42. In the present case, the loan account of the petitioners was declared NPA, and they failed to regularize their payments, prompting Respondent No.2 to present the subject cheque for payment. Whether the subject cheque was given as security for facilitating the transfer of property documents from Yes Bank and not towards repayment of any legally enforceable liability constitutes defence of the accused and is a

matter of trial. No unimpeachable material has been placed on record to indicate that the subject cheque was issued solely for securing the release of title deeds or that it was never intended to be presented for payment. The purpose behind the issuance of the cheque, and whether it was connected to a subsisting liability or merely a collateral assurance, is a disputed question of fact, which cannot be conclusively determined while exercising power under Section 482 of the CrPC.

Whether the simultaneous invocation of SARFAESI proceedings bar the criminal complaint under Section 138 of the NI Act

43. The learned counsel for the petitioners contended that since Respondent No.2 has already initiated proceedings under the SARFAESI Act, 2002, the simultaneous prosecution under Section 138 of the NI Act amounts to an abuse of process.

44. This argument is equally untenable. The loan extended by financial institutions does not become the personal asset of the borrower; rather, it is disbursed in a fiduciary capacity, sourced from public funds contributed by taxpayers. Recognizing the need for a swift and effective mechanism to recover non-performing assets (NPAs), the legislature enacted the SARFAESI Act. This law empowers banks and financial institutions to recover dues without court intervention, ensuring financial stability.

45. Conversely, the NI Act is a codified statute governing promissory notes, bills of exchange, and cheques. It establishes criminal liability for dishonour of cheques to uphold the sanctity of negotiable instruments and prevent financial misconduct. The

SARFAESI Act and the NI Act serve distinct legislative purposes, addressing civil debt recovery and criminal liability for dishonoured cheques, respectively**.**

46. Proceedings under Section 138 of the NI Act are quasi-criminal in nature, and as such, there is no legal bar on initiating simultaneous proceedings under both the SARFAESI Act and the NI Act. This Hon'ble Apex Court in ***Gurcharan Singh v. Allied Motors Ltd.* : (2005) 10 SCC 626**, held as under :

> **"5.** *….. It is elementary that the civil proceedings or arbitration proceedings for recovery and the criminal proceedings under Section 138 of the Negotiable Instruments Act are based on independent cause of action. The making of the award may be a defence to such a complaint but to what extent the defence would be valid, shall depend upon the facts and circumstances of each case. Mere making of the award cannot be a ground to stall or stay the proceedings initiated under Section 138 of the Negotiable Instruments Act. That being the only ground to stay the criminal proceedings of complaint cases, we are unable to sustain the impugned order of the High Court. We are, however, expressing no opinion, one way or the other, either on the merits of complaints or that of defence that may be taken or available to the accused in accordance with law.*

47. The reliance placed by learned counsel for the petitioners on the judgment by the Hon'ble Apex Court in ***P. Mohanraj & Others v. Shah Brothers Ispat Private Ltd.* : (2021) 6 SCC 3 258** is misplaced. In ***P. Mohanraj & Others v. Shah Brothers Ispat Private Ltd.*** (*supra*), the Hon'ble Apex Court considered whether proceedings under Sections 138/141 of the NI Act could be stayed by virtue of the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016 ('**IBC**') against a corporate debtor.

48. In the present case, the petitioners are not corporate debtors, nor are proceedings pending under the IBC. The SARFAESI Act contains no provision that bars or stays criminal prosecution under the NI Act. The pendency of SARFAESI proceedings, therefore, does not impede the continuation of proceedings under Section 138 of the NI Act.

Conclusion

49. It is well settled that the inherent powers should be exercised sparingly, with circumspection, and in the rarest of rare cases when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of law. The inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice. At this stage, this Court cannot go into the merits and/or come to the conclusion that there was no existing debt or liability.

50. In the present case, *prima facie*, it is evident that the principal grounds of challenge by the petitioners are all matter of defence at the trial.

51. In light of the above, I find no illegality or irregularity in the impugned order. The present petition is dismissed.

AMIT MAHAJAN, J

APRIL 1, 2025