

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

% Judgment delivered on: 08.05.2025

+ **CRL.M.C. 535/2019 & CRL.M.A. Nos. 2241/2019, 31115/2024, 31184/2024**

NUTAN GOYAL & ORSPetitioners

versus

THE STATE (NCT OF DELHI) & ORS.Respondents

+ **CRL.M.C. 537/2019 & CRL.M.A. Nos. 2251/2019, 31107/2024, 31112/2024**

M/S SAM (INDIA) BUILTWELL PVT LTD

& ORSPetitioners

versus

THE STATE (NCT OF DELHI) & ORSRespondents

+ **CRL.M.C. 667/2019 & CRL.M.A. 2747/2019, 31109/2024, 31136/2024**

NUTAN GOEL & ORSPetitioners

versus

THE STATE (NCT OF DELHI) & ORSRespondents

+ **CRL.M.C. 668/2019 & CRL.M.A. Nos. 2749/2019, 31113/2024, 31138/2024**

M/S SAM (INDIA) BUILTWELL PVT LTD

& ORSPetitioners

versus

THE STATE (NCT OF DELHI) & ORSRespondents



+ **CRL.M.C. 674/2019 & CRL.M.A. Nos. 2763/2019, 31137/2024, 31140/2024**

NUTAN GOEL & ORSPetitioners
versus
THE STATE (NCT OF DELHI) & ORSRespondents

+ **CRL.M.C. 680/2019 & CRL.M.A. Nos. 2774/2019, 31106/2024, 31114/2024**

M/S SAM (INDIA) BUILTWELL PVT LTD
& ORSPetitioners
versus
THE STATE (NCT OF DELHI) & ORSRespondents

+ **CRL.M.C. 683/2019 & CRL.M.A. Nos. 2779/2019, 31111/2024, 31139/2024**

M/S SAM (INDIA) BUILTWELL PVT LTD
& ORSPetitioners
versus
THE STATE (NCT OF DELHI) & ORSRespondents

+ **CRL.M.C. 685/2019 & CRL.M.A. Nos. 2784/2019, 31108/2024**

NUTAN GOEL & ORSPetitioners
versus
THE STATE (NCT OF DELHI) & ORSRespondents

Advocates who appeared in this case:

For the Petitioners : Mr. Shashank Khurana and Mr. Samarth Kashyap, Advocates.

For the Respondents : Mr. Manoj Pant, APP for the State / R-1.



Mr. S.L.Gupta, Mr. Asutosh Sharma, Ms. Gunjan Sharma and Mr. Himanshu Gandhi, Advocates for R-2.

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petitions are filed essentially challenging the separate summoning orders dated 28.10.2017, passed by the learned Trial Court in Complaint Case Nos. 3581/2017, 3582/2017, 3583/2017 and 3235/2017 *qua* the petitioners.

2. The brief facts of the case are as follows:

2.1. In all the respective complaints, the petitioner M/s. SAM India Builtwell Pvt. Ltd. has been impleaded as Accused No. 6. The petitioners—Madan Lal, Arvind Goel and Surendra Kumar Gupta have been impleaded as accused persons in the complaints in capacity of them being Directors and promoters of Accused No. 6. The petitioner Nutan Goel (wife of the petitioner Arvind Goel) and the petitioner Kamlesh Garg (wife of the petitioner Madan Lal) have been implicated as they are the shareholders and promoters of Accused No. 6. The principal offender in the present case is M/s. AVJ Developers (India) Pvt. Ltd./Accused No. 1.

2.2. It is the case of the complainant that Accused No. 6 company and M/s. AVJ Developers Pvt. Ltd./Accused No. 12 conspired to cheat



the public at large and created a new company, namely, M/s. AVJ Developers (India) Pvt. Ltd./Accused No. 1. The directors of Accused No. 12 company have also separately been made accused in the present complaints.

2.3. Accused No. 1 company was created with the object of developing group housing society in Greater Noida, Uttar Pradesh. In accordance with the Consortium Agreement, Accused No. 12 was to act as a lead member of the Joint venture. It is the case of the complainant that accused – Vinay Jain, Asha Jain, Vipin Aggarwal and Pradeep Singhal are in charge of and responsible for the conduct of the business of Accused No. 1. Further, the petitioner company and the petitioners being members of association of individuals are also involved in the business of Accused No.1.

2.4. In Complaint Case No. 3582/2017, it is alleged that accused Vinay Jain represented to Respondent No. 2/complainant that he was in urgent need of funds worth ₹1 crore for the purpose of construction. It is alleged that on the assurance of the accused Vinay Jain that he would provide physical and vacant possession of the flat C-215, 3rd floor, Suraj Mal Vihar, Delhi and would give assured returns to the complainant at 24% per annum on the money paid, the complainant paid a sum of ₹1 crore through RTGS, and accused Asha Jain executed a Memorandum of Understanding on behalf of Accused No. 1 and on the directions of accused Vinay Jain. It is the case of the complainant that at the expiry of a period of 12 months, either Accused No. 1 was to return the amount of ₹1 crore to the



complainant or it was open to the complainant to consider purchasing the said flat.

2.5. It is alleged that post the expiry of a period of 12 months and after repeated requests on 18.03.2017, a post-dated cheque bearing no. 065597 dated 19.06.2017 for a sum of ₹1 crore was issued by Accused No. 1 company to the complainant, the signatory to which was accused Vinay Jain. It is alleged that the said cheque upon presentation got dishonoured and was returned unpaid *vide* return memo dated 30.06.2017 with the remarks “*payment stopped by the drawer.*” Subsequently on the failure of the accused persons to make the payment within the stipulated period despite the receipt of the statutory notice, the complainant filed the present complaint under Section 138 of the Negotiable Instruments Act, 1881 (‘**NI Act**’).

2.6. In Complaint Case No. 3583/2017, it is alleged that the complainant was in urgent need of an office and two residential plots. It is alleged that for the same reason an MoU was executed by accused Asha Jain on 01.08.2014 on behalf of Accused No. 1 whereby the complainant extended a sum of ₹30 lakhs to Accused No. 1 as earnest money for booking one corner shop admeasuring 330 square feet and two residential plots at AVJ Infocity. It is alleged that subsequently on the demand of accused Vinay Jain, a further sum of ₹25 lakhs was paid to accused Vinay Jain as part payment of consideration for the booked units. It is thus the case of the complainant that he paid a sum of ₹55 lakhs to Accused No. 1 as part payment of the booked units as against the total sale consideration for a sum of ₹1,09,05,000/-.



2.7. In accordance with the MoU dated 01.08.2014, post the expiry of a period of 12 months, should the complainant decide not to hold the booked units, Accused No. 1 was to return the entire amount to the complainant. Subsequently, post the expiry of a period of 12 months when the complainant learnt that the construction work on the said plots had not commenced and that the accused persons were facing a legal dilemma in the construction on the said plots, it is alleged that the complainant decided against holding the said plots. It is alleged that after repeated requests accused Vinay Jain handed over a post dated cheque bearing no. 065598 dated 19.06.2017 for a sum of ₹30 lakhs to the complainant. The said cheque on presentation got dishonoured and returned unpaid *vide* return memo dated 30.06.2017 with the remarks “*payment stopped by the drawer.*” When the accused persons failed to return the amount within the stipulated period despite the issuance of the statutory notice, the present complaint was filed under Section 138 of the NI Act.

2.8. Similarly, complaint case no. 3581/2017 is filed for the dishonour of the post-dated cheque bearing no. 065600 dated 19.06.2017 for a sum of ₹20 lakhs, which, on presentation, got dishonoured and returned unpaid *vide* return memo dated 30.06.2017 with the remarks “*payment stopped by the drawer.*” Further, complaint case no. 3235/2017 is filed for the dishonour of the post-dated cheque bearing no. 065601 dated 19.06.2017 for a sum of ₹5 lakh which too on presentation returned unpaid *vide* return memo dated 30.06.2017 with the remarks “*payment stopped by the drawer.*”



Submissions on behalf of the petitioners

3. The learned counsels for the petitioners submitted that the summoning order is liable to be quashed *qua* the petitioners. He submitted that the petitioners had no role to play in the transactions or the business of Accused No. 1 company and were not responsible in any manner in managing its day-to-day affairs.

4. He submitted that the petitioners were neither the signatory to the subject cheques nor were the petitioners in charge of the affairs of Accused No. 1 company. He submitted that the allegations against the petitioners are general and vague in nature. He submitted that the petitioners were not even directors in Accused No. 1 company. He submitted that the petitioners are only sought to be implicated on the ground that the petitioners had a role to play in M/s Sam India Builtwell Pvt. Ltd arrayed as Accused No. 6 which had a shareholding in the Accused No. 1 company till 2014-2015.

5. He submitted that even if the case of the complainant is taken at its highest, even then in 2014-2015 itself, long before the date of issuance of the cheques, that is, 19.06.2017 or the date of its dishonour being 30.06.2017, M/s Sam India Builtwell Pvt. Ltd had already transferred its nominal shareholding of 2000 equity shares in Accused No. 1 company to Vinay Jain/authorised signatory of the subject cheques and Asha Jain.

6. He submitted that in terms of Section 141 of the NI Act only such persons who, at the time of the offence, were in charge of and



responsible to the company for the conduct of its business, can be made liable.

7. He submitted that merely because the petitioner company - M/s Sam India Builtwell Pvt. Ltd., at some stage, held 2000 shares of Accused No. 1 company cannot translate to mean that the petitioner company or the petitioners who held the shares or were/are directors of the petitioner company were responsible for the affairs of Accused No. 1 company who issued the impugned cheques to the complainant. He submitted that the petitioners were only directors/shareholders in the petitioner company, that is, M/s Sam India Builtwell Pvt. Ltd. and as far as the offence is concerned, the petitioners are in no way involved in the affairs or responsible for the conduct of Accused No. 1 company.

Submissions on behalf of the complainant

8. The learned counsel for the complainant submitted that the present petition is liable to be dismissed since the grounds raised by the petitioners are subject matter of trial, and any interference at this stage is unwarranted. He submitted that in accordance with Section 138 read with Section 141 of the NI Act, even non directors can be implicated for the dishonour of cheque, if they are incharge of and responsible for the affairs of the company.

9. He submitted that Accused No. 1 company was created to cheat the public at large. He submitted that the petitioners formed part of the members of association in Accused No.1 company and are consequently liable for the affairs of Accused No. 1. He submitted that



the defences raised by the petitioners are subject matter of trial and cannot be looked into at this stage. He consequently submitted that any interference by this Court to the impugned order at this stage is not warranted.

Analysis

10. At the outset, it is relevant to note that this Court can quash complaints under the NI Act at the pretrial stage in the exercise of its inherent jurisdiction under Section 482 of the CrPC if such unimpeachable material is brought forth by the accused persons which indicates that they were not concerned with the issuance of the cheques or that no offence is made out from the admitted facts. The Hon'ble Apex Court in the case of ***Rathish Babu Unnikrishnan v. State (NCT of Delhi) : 2022 SCC OnLine SC 513*** had discussed the scope of interference by the High Court against the issuance of process under the NI Act as under:

“8. The issue to be answered here is whether summons and trial notice should have been quashed on the basis of factual defences. The corollary therefrom is what should be the responsibility of the quashing Court and whether it must weigh the evidence presented by the parties, at a pre-trial stage.

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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 pretrial 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.”

(emphasis supplied)

11. In line with the dictum of the Hon’ble Apex Court in ***Rathish Babu Unnikrishnan v. State (NCT of Delhi)*** (*supra*), thus, while exercising the power under Section 482 of the CrPC to quash a complaint at the pre-trial stage, it is pertinent for this Court to examine whether the factual defence is of such impeachable nature that the entire allegations made in the complaint is disproved.



12. The petitioners are sought to be implicated in the present case by virtue of Section 138 read with Section 141 of the NI Act on account of them being the directors/shareholders of the petitioner company - M/s Sam India Builtwell Pvt. Ltd. which at some point held some shares in Accused No. 1 company. Section 141 of the NI 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 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.”

13. In accordance with Section 141 of the NI Act, in instances where the principal offender under Section 138 of the NI Act is a company, every person who at such time when the cheque was dishonoured, and no subsequent payment was made, was in charge of the business of the company, and was responsible for the conduct of business, is deemed to be guilty of the offence under Section 138 of the NI Act.

14. It is trite law that a person cannot be arrayed as an accused person merely due to association with the accused company. In ***S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla*** : (2005) 8 SCC 89, the Hon’ble Apex Court analysed Section 141 of the NI Act and observed as under:

“10. While analysing Section 141 of the Act, it will be seen that it operates in cases where an offence under Section 138 is committed by a company. The key words which occur in the section are “every person”. These are general words and take every person connected with a company within their sweep. Therefore, these words have been rightly qualified by use of the words:

‘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, etc.’

What is required is that the persons who are sought to be made criminally liable under Section 141 should be, at the time the offence was committed, in charge of and responsible



to the company for the conduct of the business of the company. **Every person connected with the company shall not fall within the ambit of the provision. It is only those persons who were in charge of and responsible for the conduct of business of the company at the time of commission of an offence, who will be liable for criminal action. It follows from this that if a Director of a company who was not in charge of and was not responsible for the conduct of the business of the company at the relevant time, will not be liable under the provision.** The liability arises from being in charge of and responsible for the conduct of business of the company at the relevant time when the offence was committed and not on the basis of merely holding a designation or office in a company. Conversely, a person not holding any office or designation in a company may be liable if he satisfies the main requirement of being in charge of and responsible for the conduct of business of a company at the relevant time. **Liability depends on the role one plays in the affairs of a company and not on designation or status. If being a Director or manager or secretary was enough to cast criminal liability, the section would have said so.** Instead of “every person” the section would have said ‘every Director, manager or secretary in a company is liable’..., etc. The legislature is aware that it is a case of criminal liability which means serious consequences so far as the person sought to be made liable is concerned. Therefore, only persons who can be said to be connected with the commission of a crime at the relevant time have been subjected to action.”

(emphasis supplied)

15. Similarly, the Hon’ble Apex Court in ***K.K. Ahuja v. V. K. Vora*** : (2009) 10 SCC 48 observed as under:

“20. Section 291 of the Companies Act, 1956 provides that subject to the provisions of that Act, the Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do. A company though a legal entity can act only



through its Board of Directors. The settled position is that a Managing Director is prima facie in charge of and responsible for the company's business and affairs and can be prosecuted for offences by the company. But insofar as other Directors are concerned, they can be prosecuted only if they were in charge of and responsible for the conduct of the company's business."

16. Recently, the Hon'ble Apex Court in ***Susela Padmavathy Amma v. M/s. Bharti Airtel Limited : 2024 INSC 206*** while quashing the proceedings under Section 138 read with Section 142 of the NI Act against the director of the company observed as under:

"10. It was held that merely because a person is a director of a company, it is not necessary that he is aware about the day-to-day functioning of the company. This Court held that there is no universal rule that a director of a company is in charge of its everyday affairs. It was, therefore, necessary, to aver as to how the director of the company was in charge of day-to-day affairs of the company or responsible to the affairs of the company. This Court, however, clarified that the position of a managing director or a joint managing director in a company may be different. This Court further held that these persons, as the designation of their office suggests, are in charge of a company and are responsible for the conduct of the business of the company. To escape liability, they will have to prove that when the offence was committed, they had no knowledge of the offence or that they exercised all due diligence to prevent the commission of the offence."

17. It must be borne in mind that Section 141 of the NI Act is a penal provision that aims to create vicarious liability on the accused. For this reason, the provisions ought to be strictly construed. In the case of ***National Small Industries Corpn. Ltd. v. Harmeet Singh Paintal : (2010) 3 SCC 330***, the Hon'ble Apex Court had emphasised



the necessity to detail the role of the accused on account of the penal nature of Section 141 of the NI Act and held as under:

*“13. Section 141 is a penal provision creating vicarious liability, and which, as per settled law, must be strictly construed. It is therefore, not sufficient to make a bald cursory statement in a complaint that the Director (arrayed as an accused) is in charge of and responsible to the company for the conduct of the business of the company without anything more as to the role of the Director. **But the complaint should spell out as to how and in what manner Respondent 1 was in charge of or was responsible to the accused Company for the conduct of its business. This is in consonance with strict interpretation of penal statutes, especially, where such statutes create vicarious liability.***

(emphasis supplied)

18. The short point for consideration of this Court thus is whether the petitioners who were/are directors/shareholders of the petitioner company - M/s Sam India Builtwell Pvt. Ltd. can be made liable on account of them being associated with the Accused No. 1 company.

19. It is pertinent to note that Section 141 of the NI Act does not specify the designation/position that a person must hold in the accused company in order for them to be vicariously liable. Section 141 of the NI Act merely asseverates that when the principal offender is the company, then any person who was in charge of and was responsible to the company for the conduct of the business of the company shall be liable to be proceeded against. The relevance of the term “and” appearing between the phrases “was in charge of” and “was responsible to the company for the conduct of the business of the



company” as appearing in Section 141(1) of the NI Act was emphasised by the Hon’ble Apex Court in the case of *Ashok Shewakramani and Others v. State of Andhra Pradesh and Another* : (2023) 8 SCC 473 as under:

“22. In the light of sub-section (1) of Section 141, we have perused the averments made in the complaints subject-matter of these three appeals. The allegation in Para 1 of the complaints is that the appellants are managing the Company and are busy with day-to-day affairs of the Company. It is further averred that they are also in charge of the Company and are jointly and severally liable for the acts of Accused 1 Company. The requirement of sub-section (1) of Section 141 of the NI Act is something different and higher. Every person who is sought to be roped in by virtue of sub-section (1) of Section 141 of the NI Act must be a 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. Merely because somebody is managing the affairs of the Company, per se, he does not become in charge of the conduct of the business of the Company or the person responsible for the Company for the conduct of the business of the Company. For example, in a given case, a manager of a Company may be managing the business of the Company. Only on the ground that he is managing the business of the Company, he cannot be roped in based on sub-section (1) of Section 141 of the NI Act.

23. The second allegation in the complaint is that the appellants are busy with the day-to-day affairs of the Company. This is hardly relevant in the context of sub-section (1) of Section 141 of the NI Act. The allegation that they are in charge of the Company is neither here nor there and by no stretch of the imagination, on the basis of such averment, one cannot conclude that the allegation of the second respondent is that the appellants were also responsible to the Company for the conduct of the business. Only by saying that a person was in charge of the Company at the time



when the offence was committed is not sufficient to attract sub-section (1) of Section 141 of the NI Act.

24. *Sub-section 1 of Section 141 reads thus: “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.]” (emphasis supplied)*

On a plain reading, it is apparent that the words “was in charge of” and “was responsible to the Company for the conduct of the business of the Company” cannot be read disjunctively and the same ought be read conjunctively in view of use of the word “and” in between.”

(emphasis supplied)

20. From a perusal of the material on record, the following facts emerge in relation to the position held by the petitioners:

- a) The petitioner company - M/s. SAM India Builtwell Pvt. Ltd. initially held 2000 equity shares in Accused No. 1 company amounting to 0.3% shareholding in Accused No. 1 Company at the time when the MoU was entered between the



Accused No. 1 Company and the complainant. In the assessment year 2014-2015, the petitioner company transferred its 2000 equity shares to accused Vinay Jain/authorised signatory of the subject cheques and accused Asha Jain in equal proportion.

b) Petitioner – Nutan Goyal holds 1,00,000 shares in the petitioner company and is wife of Arvind Goyal who is the director of the petitioner company - M/s. SAM India Builtwell Pvt. Ltd.

c) Petitioner – Kamlesh Garg holds 1,00,000 shares in the petitioner company and is wife of Madan Lal who is a director in the petitioner company - M/s. SAM India Builtwell Pvt. Ltd.

d) Petitioner – Surendra Kumar Gupta is stated to be the former director of the petitioner company M/s. SAM India Builtwell Pvt. Ltd. who resigned from his post on 02.04.2001.

e) Madan Lal – Director of the petitioner company M/s. SAM India Builtwell Pvt. Ltd.

f) Arvind Goyal – Director of the petitioner company M/s. SAM India Builtwell Pvt. Ltd.

21. In line with the dictum of the Hon'ble Apex Court in *Ashok Shewakramani and Others v. State of Andhra Pradesh and Another (supra)* and Section 141(1) of the NI Act, to fasten liability, the petitioners ought to be in charge of and responsible for the conduct of the accused company at the time of commission of the offence. It is pertinent to note that mere *per se* association with the accused



company does not tantamount to mean that the petitioners were in charge of or responsible to the company for the conduct of the business of the accused company. It must be shown that the petitioners were not only in charge of but were also responsible to the company for the conduct of the business of the company.

22. It is undisputed that the petitioners were not a signatory to the subject cheques. From a perusal of the material on record, it is evident that the petitioners were neither incharge of nor responsible to the Accused No. 1 company for the conduct of its business. The entire case of the complainant appears to be that since the petitioner company - M/s. SAM India Builtwell Pvt. Ltd held shares in Accused No. 1 company then the petitioner company as well as the persons managing the affairs of the petitioner company would also be vicariously liable. Such argument, in the opinion of this Court, is without any merit. No person can be made to be vicariously liable on account of them holding shares in the accused company. It is not disputed that the shareholders may have some say in managing the conduct of the accused company. The same, however, does not tantamount to mean that such shareholders are also incharge of and responsible for the conduct of the business of the accused company so as to make them vicariously liable in terms of Section 141 of the NI Act. For this reason, unless specific averments are made to highlight the role of such shareholders in managing the day-to-day affairs of the accused company, no liability under Section 138 read with Section 141 of the NI Act can be attributed.



23. Consequently, merely because the petitioner company - M/s. SAM India Builtwell Pvt. Ltd, at some stage, held 2000 equity shares amounting to approximately 0.3 % shareholding in Accused No. 1 company does not tantamount to mean that the directors/shareholders of the petitioner company would also be considered to be incharge of and responsible for the conduct of Accused No. 1 company. The petitioners cannot be stitched to be bound to the affairs of Accused No. 1 company by the mere thread that the petitioner company at some stage held of 0.3% shareholding in Accused No. 1 company.

24. The principle of vicarious liability enshrined under Section 141 of the NI Act cannot be stretched to such extravagant lengths so as to enmesh any person even associated with the accused company to be caught in the web of culpability. From the record, it is borne out that the petitioners were neither signatory nor responsible to the Accused no. 1 for the conduct of its affairs.

25. Even otherwise, the petitioner company - M/s. SAM India Builtwell Pvt. Ltd, long back in the assessment year 2014-2015 had transferred its 2000 equity share in equal proportion to accused Vinay Jain and Asha Jain before the subject cheques were issued or dishonoured in the year 2017.

Conclusion

26. In the light of the aforesaid discussion, the present petitions are allowed and the proceedings emanating from Complaint Case Nos. 3581/2017, 3582/2017, 3583/2017 and 3235/2017 for the offence under Section 138 read with Section 141 of the NI Act *qua* the



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petitioners are quashed. Pending application(s), if any, also stands disposed of.

27. A copy of this order be placed in all the matters.

MAY 8, 2025

AMIT MAHAJAN, J