IN THE COURT OF JAGMOHAN SINGH
ADDITIONAL SESSIONS JUDGE – 03
NORTH DISTRICT, ROHINI COURTS, DELHI

CNR No. DLNT01-011689-2025
Crl. Revision No. 216/2025

Bheemi Reddy S/o Sanjeev Reddy
R/o F.No.401, Shanthi Residency,
BJP Office Road, Kukat Pally,
Hyderabad .....Revisionist

Vs.

Lovesh Jain S/o Madal Lal Jain
R/o C-1/3, Model Town, Delhi ….Respondent

Date of institution	:	30.08.2025
Arguments concluded on	:	01.06.2026
Date of Order	:	01.06.2026

Order

1. Vide this order, this Court shall decide the instant revision petition filed by revisionist against the impugned order dated 19.04.2025 passed by the Court of Ld. JMFC, NI Act, Digital Court-02, North District, Rohini Courts, Delhi, in CC No. 29406/2024 titled as Lovelesh Jain vs Sunrays Infrastructure whereby the revisionist has been summoned in the said case.

Ground of revision/ arguments

2. **Sh. Manan Chawla, Ld. Counsel for the revisionist** has assailed the impugned order on the following grounds:-

(i) The revisionist / accused No. 7 is admittedly not the drawer of the cheque and could not have been summoned under Section 138 of the Negotiable Instruments Act, 1881 R/W 141 N.1 Act;

(ii) Except the fact that the name of the revisionist/accused No. 7 is mentioned in the company master data filed by the complainant there is no other averment qua the role of the revisionist in the day today affairs of the company hence in view of the settled

JAGMOHAN SINGH Digitally signed by JAGMOHAN SINGH Date: 2026.07.18 16:44:38 +0530 preposition of law the revisionist could not have been summoned u/s 138 of the Negotiable Instruments Act, 1881 in absence of any specific averment qua the revisionist;

(iii) It is not even averred in the complaint that the revisionist was at all involved or responsible for the day today affairs of the company and admittedly the revisionist is neither signatory of the cheque nor signatory in any of the agreement relied upon by the respondent;

(iv) Perusal of the complaint reflects that the requisite statements, which are required to be averred in the complaint, are missing so as to make the revisionist vicariously liable for the offence, allegedly, committed by the company;

(v) It a settled preposition of law that before a person can be made vicariously liable, strict compliance with the statutory requirements should be insisted. On facts, the averments in the complaint do not meet the requirements in the said case;

(vi) In the instant case the Trial Court has not complied with the provision as provided u/s 202 Cr. PC;

(vii) Perusal of the order sheets would show that Section 223 BNSS has not been complied with and revisionist has not been heard, which is the aim and intent of Section 223 of BNSS thereby violating the mandatory provisions outlined in Section 223 BNSS.

3. In support of his arguments, Ld. Counsel for the revisionist has relied upon the following judgments (I) **S.M.S Pharmaceuticals Ltd. Vs Neeta Bhalla & Anr. (2005) 8 SCC 89;** (ii) **Tutu Ghosh vs Enforcement Directorate 2025 Live Law (Cal) 174;** and **(iii) Neeti Sharma vs Saranjit Singh 2025 DHC 2367.**

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Counter Arguments

4. Per contra, **Sh. Karan Bahal, Ld. Counsel for the respondent / complainant** has submitted that there is no illegality, infirmity or impropriety in the impugned order and that the present revision petition was liable to be dismissed.

Appreciation of the arguments/grounds of revision

5. I have heard Ld. Counsel for the revisionist, Ld. Counsel for the respondent and have also perused the record carefully.

6. The first grievance of the accused/ revisionist is that before summoning him as an accused, the mandate of Section 223 BNSS was not complied with, which provides that in a complaint case, no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard.

7. Facts of the present case may now be examined in the light of above said provision. Perusal of the Trial Court Record reveals that vide order dated 25.10.2024, notice was issued to the proposed accused persons in order to give them hearing in compliance of the Section 223 BNSS; vide order dated 06.02.2025, opportunity was given to the proposed accused to file written submissions; on 28.02.2025, Ld. Counsel was present on behalf of accused no. 4, 5 and 6 while accused 2, 3, 7 and 8 were absent and arguments were heard on the point of summoning on behalf of the accused 4, 5 and 6. Subsequently, Ld. Counsel also appeared for accused 2, 3, 7 and 8 and he was apprised of the proceedings as well as next date of hearing; on 19.04.2025, the summoning order was passed with the following observations:-

> "*Arguments heard on point of cognizance. It is clear that proposed accused no. 4, 5 & 6 had no role in the functioning of the company accused no.1 at the relevant time. Hence, proceedings are dropped against accused no. 4, 5 & 6. As accused*

no. 1, 2, 3, 7 & 8 has already appeared before the court and are aware about the proceedings and has argued on the point of cognizance.

After hearing the submissions of the proposed accused no. 1, 2, 3, 7 & 8 the court is of the view that a case U/s 138 NI Act is made out against the accused no. 1, 2, 3, 7 & 8.

I take cognizance in the matter. Following the law laid down in A. C. Narayanan Vs. State of Maharashtra & Anr." (2014) 11 SCC 790, complaint, affidavit of evidence and documents considered. In view of documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against accused person for offence punishable under Section 138 N. I. Act. As the accused has appeared before the court formal issuance of summons is dispensed with".

8. From the bare perusal of the above said proceedings, it is clear that mandate of Section 223 BNSS was substantially complied with by Ld. Trial court before taking cognizance in the present case. Thus, the argument of the Ld. Counsel for the accused/ revisionist is liable to the rejected to this extent.

9. Even otherwise, in view of the law laid down in **Ashok vs Fayaz Ahmed (2025) passed by the Hon'ble High Court** and the same has been concurred by the Hon'ble Supreme Court while discussing other aspects for speedy disposal of the matters u/s 138 NI Act in **Sanjabij Tari vs Kishore S. Borear & Ors. (2025) INSC 1158, Manu/ SC/ 1336/2025**, it has been decided that Negotiable Instruments Act is a Special Act and no pre cognizance notice to the accused u/s 223 BNSS is required for complaints filed u/s 138

NI Act since it is a special law and its own specific procedure takes precedence.

10. At the same time, perusal of the trial court record, however, reveals that as per para 2 of the complaint, complainant has specifically stated that accused no.1 company had eight directors out of which accused no.2 and 3 are incharge of day to day affairs. It is to be noted that complainant has himself stated that accused no. 2 namely Kapil Singhal and accused no.3 namely Om Chaudhary are incharge of the day to day affairs of the company. As per the complainant himself, the particulars of the remaining directors have been downloaded from the website of the Ministry of Corporate Affairs and there are no averments regarding the remaining accused / directors about their role in the transaction in question.

11. It is further stated that in the complaint that initially senior employee namely Atul of the accused company approached the complainant and requested to finance Rs.25 crores in the accused company's commercial project R Plaza; accused no. 2 and 3 represented to the complainant about the details of the above said project. Moreover, documents such as permission deed, annexture C-2 (colly) and the receipt (annexure C-3) relied upon by the complainant also appears to be have been signed by accused 2 Kapil Singhal only. Further, from the bare perusal of the signatures appearing on the two cheques in question, it is clear to the the naked eye that cheques in question have also been signed by accused 2 Kapil Singhal and accused 3 Om Chaudhary only though specifically names of the said signatories have not been stated by the complainant/ respondent anywhere in the complaint.

12. On the point of vicarious liability of directors of an accused company in a complaint case u/s 138 NI Act, it was held by the Hon'ble Supreme Court in **S.M.S Pharmaceutical (supra),** relied

upon by Ld counsel for the revisionist/ accused that it is necessary to specifically aver in the complaint u/s 141 NI Act that at the time when the offence was committed, the person accused were incharge of and were responsible for the conduct for business of the company. The requirement of above said section is that the persons sought to be made liable should be incharge and responsible for the conduct of the business of the company at the relevant time and this fact has to be averred as a fact. It was observed as under:-

> *"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, 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*

JAGMOHAN SINGH Digitally signed by JAGMOHAN SINGH Date: 2026.07.18 16:45:05 +0530 *averred as a fact as there is no deemed liability of a director in such cases.*

(c) The answer to Question (c) has to be in the affirmative. The question notes that the managing director or joint managing director would be admittedly in charge of the company and responsible to the company for the conduct of its business. When that is so, holders of such positions in a company become liable under Section 141 of the Act. By virtue of the office they hold as managing director or joint managing director, these persons are in charge of and responsible for the conduct of business of the company. Therefore, they get covered under Section 141. So far as the signatory of a cheque which is dishonoured is concerned, he is clearly responsible for the incriminating act and will be covered under sub-section (2) of Section 141."

13. Now coming to the facts of the present case. Except the mere averment that the accused/revisionist was also cited as director of the accused no.1 company as per website of the Ministry of Corporate Affairs, there are no factual averments regarding any role played by the accused / revisionist in the transaction in question. Thus, in the considered opinion of this court, there are no sufficient grounds to summon the accused/ revisionist as an accused in the present case.

Decision

14. In view of the above reasoning and discussion, **the present revision petition is allowed. The impugned summoning order is accordingly, set aside qua the accused/ revisionist.**

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15. TCR if any be sent back alongwith an attested copy of this order.

16. No further action is called for in the present case. File be consigned to record room.

Announced in the open court
on 01.06.2026

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