

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 7078/2021
URN: CRLMP / 13084U / 2021

Mohan Lal Sharma S/o Shri Shriram Sharma, Aged About 74 Years, Ex-Principal St. Soldier Senior Secondary School, Nainwa, R/o Ward No. 3, Rajghat, Nainwa, District Bundi, At Present Resident Of Bhagwati Chouk, Govindgarh, Alwar, Rajasthan.

-----Petitioner

Versus

1. Ramkaran Potar S/o Shri Madholal Potar, R/o Rajghat Nainwa, Tehsil Nainwa, District Bundi, Rajasthan.
2. St. Soldier Senior Secondary School, Through Its Principal Smt. Priyanka Sharma W/o Shri Deepak Sharma, Ward No. 15, Nainwa, District Bundi.
3. Rajveer Sualika, Director St. Soldier Senior Secondary School, Nainwa, Bundi.

-----Respondents

For Petitioner(s)	:	Mr. S.S. Hora with Mr. Tara Chand Sharma and Mr. Himanshu Agarwal
For Respondent(s)	:	Mr. Sandeep Sharma Mr. Harshit Parashar for Mr. Anupam Sharma

JUSTICE ANOOP KUMAR DHAND

Order

14/07/2026

1. The instant criminal misc. petition has been preferred challenging the validity of the order dated 07.11.2017 passed by the Court of the Additional Chief Judicial Magistrate, Nainwa, District Bundi in complaint case No.950/2017, by which

cognizance has been taken against the petitioner under Section 138 of the Negotiable Instruments Act.

2. Counsel for the petitioner submits that the petitioner was posted as the Principal in St. Soldier Senior Secondary School at Nainwa, District Bundi and while in service, he issued a cheque in favour of the complainant, but he resigned from the said post on 24.03.2017. Counsel submits that the aforesaid cheque dated 17.06.2017 was given as security and the same was misused by the complainant by presenting it before the bank on 19.06.2017. The said cheque was dishonoured with remarks 'funds insufficient'. Counsel submits that it was admitted by the complainant also in the complaint itself that the petitioner resigned from the post of the Principal before the complaint was filed. Counsel submits that no cognizance has been taken against the Director or other officials responsible for the affairs of the School and cognizance has been taken only against the petitioner, who has no concern whatsoever with the affairs of the School after his resignation from the post of Principal of the School. Counsel further submits that the petitioner has no vicarious liability, rather the liability lies upon the School, if at all any amount was borrowed by the School from the complainant.

3. In support of his submissions, counsel has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Aneeta Hada vs. Godfather Travels and Tours Pvt. Ltd.** reported in **2012 (5) SCC 661** and upon the judgment passed by the Madras High Court in the case of **K. Sundari vs. C.A.R.P. Mari** while deciding **Crl. O.P. (MD) Nos.1293/2021** vide order dated 27.11.2024.

4. Counsel submits that under these circumstances, the impugned proceedings amounts to abuse of due process of law and the same is liable to be quashed and set-aside.

5. Per contra, learned counsel appearing on behalf of the complainant opposed the prayer and submitted that the cheque in question was signed by the petitioner and when the same was presented before the Bank by the complainant, it got dishonored with the remarks 'funds insufficient', hence, under these circumstances, the petitioner has committed an offence under Section 138 of the Negotiable Instruments Act and the cognizance has rightly been taken against him, hence, interference of this Court is not warranted.

6. Heard and considered the submissions made at the Bar and perused the material available on the record.

7. Perusal of the record indicates that a complaint under Section 138 of the Negotiable Instruments Act was submitted by the complainant against the petitioner as well as against the school i.e., St. Soldier Senior Secondary School through the Principal Priyanka Sharma and against the Director of the said School Mr. Rajveer Sualika. This fact has been admitted in the complaint by the complainant that the petitioner had resigned from the post of Principal of School, however, in the capacity of being the Ex-Principal of the School, he has been impleaded/arrayed as an accused in the cause title of the complaint. The documents available on the record indicate that the petitioner has already resigned from the post of the Principal on 24.03.2017, while the said cheque bears the date of 17.06.2017. Thus, it is emphatically clear that the petitioner was

not discharging his duties as the Principal of the said School, at the relevant time and date when the cheque was presented before the Bank by the complainant which was ultimately dishonoured.

8. It is quite shocking and surprising that no cognizance has been taken against the management of the School or Director of the School rather cognizance has been taken only against the petitioner, who has already resigned from the post of Principal of the said School.

9. The Hon'ble Apex Court in the following cases has held that once the signatory of the cheque has resigned, he is not at all responsible for the affairs of the company/organization.

In **Adhiraj Singh vs. Yograj Singh and Ors.** reported in **2024 SCC OnLine SC 5558**, it has been held in para 7 as under:

"7. Having considered the submission made by learned counsel for the parties, we find that in the present case on the date of issuance of the cheques, the appellant had already resigned. The fact regarding resignation is not in dispute. It is also not in dispute that the cheques issued by the Company were signed by another competent person on behalf of the Company. Once the facts are plain and clear that when the cheques were issued by the Company, the appellant had already resigned and was not a director in the Company and was not connected with the company, he cannot be held responsible for the affairs of the Company in view of the provisions as contained in Section 141 of the NI Act."

In the case **Anita Malhotra vs. Apparel Export Promotion Council and Ors.** reported in **2012 (1) SCC 520**, it has been held in para 16 as under:

"16. Inasmuch as the certified copy of the annual return dated 30.09.1999 is a public document, more particularly, in view of the provisions of the Companies Act,

1956 read with Section 74(2) of the Indian Evidence Act, 1872, we hold that the Appellant has validly resigned from the Directorship of the Company even in the year 1998 and she cannot be held responsible for the dishonor of the cheques issued in the year 2004.”

10. Even the Madras High Court in the case of **K. Sundari** (supra) has taken a view that the criminal trial would not proceed against the authorized signatory of the cheque, who has resigned from the post when the complaint was filed.

11. Criminal prosecution of any person is a serious matter as it affects the liberty of that person. No greater damage can be done to the reputation of a person than dragging him in a criminal case.

In the instant case, the petitioner has resigned from the post of the Principal on 24.03.2017 and the cheque in question bears the signatures of the petitioner, alleged to be issued after the date of his resignation. The petitioner cannot be held responsible for the affairs of the School, after his resignation. It is worthy to mention that his relationship of employee with the employer-School has come to an end after his resignation.

12. Considering the overall facts and circumstances of the case, in the considered opinion of this Court, the petitioner is neither liable nor responsible for the cheque in question issued if any, under his signatures, after his resignation from the post of Principal of the School.

13. On this count alone, the order impugned is not sustainable and is liable to be and is hereby quashed and set-aside.

14. Accordingly, the instant criminal misc. petition stands allowed. The stay application and all pending applications, if any, stand disposed of.

15. It goes without saying that the complainant would be at liberty to proceed against the real culprits, who are responsible for the offence.

(ANOOP KUMAR DHAND),J

KuD/54