CNR No:PHHC010167962026
2026:PHHC:102471

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210 **CRM-M-5677-2026 (O&M)**
Date of decision : 13.07.2026

Anil Kumar Malhotra **... Petitioner**

Versus

Vinod Kumar

... Respondent

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Siddhant Jain, Advocate and
Mr. Manan Jain, Advocate for the petitioner.

None for the respondent despite service.

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H.S. Grewal, J.(Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 (corresponding to Section 482 Cr.P.C.), seeking quashing of the summoning order dated 21.12.2022 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner has been summoned to face trial in COMA-92605-2022 dated 05.12.2022 titled as **"Vinod Kumar v. M/s Stan Auto Pvt. Ltd. and another"** instituted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act'), as well as for quashing of the aforesaid complaint and all consequential proceedings arising therefrom.

2. The case of the prosecution is that the petitioner, being the Director of M/s Stan Auto Pvt. Ltd., issued cheque No.702285 dated

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06.09.2022 to the complainant/respondent for a sum of ₹5,00,000/- drawn on the State Bank of India. Upon presentation, the cheque was dishonoured on 07.10.2022 with the remarks **"Account Closed"**. Thereafter, a legal notice dated 03.11.2022 was served upon the petitioner and the impugned complaint under Section 138 of the Act was filed by the respondent/complainant, whereupon the petitioner has been summoned to face trial vide the impugned order dated 21.12.2022 (Annexure P-1).

3. Learned counsel for the petitioner submits that the impugned complaint as well as the summoning order are unsustainable under the law as M/s Stan Auto Pvt. Ltd. had already been admitted into the Corporate Insolvency Resolution Process (CIRP) by order dated 18.02.2022 passed by the National Company Law Tribunal, New Delhi and consequently, the management and operation of the company's affairs, including its bank accounts, had vested in the Interim Resolution Professional under Sections 14 and 17 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC'). It is submitted that the petitioner had neither any control over the affairs of the company nor the authority to honour the cheque or comply with the statutory demand notice. In support of his submissions, he has relied upon the judgment of the Hon'ble Supreme Court in **Vishnoo Mittal v. Shakti Trading Co., 2025 SCC OnLine SC 558**. Learned counsel, therefore, submits that continuation of the proceedings against the petitioner amounts to abuse of the process of law and the same is liable to be quashed.

4. Despite service, there is no representation on behalf of the respondent.

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5. I have considered the arguments raised by the learned counsel for the petitioner and have carefully gone through the material available on record.

6. It is not in dispute that M/s Stan Auto Pvt. Ltd. was admitted into the Corporate Insolvency Resolution Process (hereinafter referred to as 'CIRP') by the National Company Law Tribunal, New Delhi vide order dated 18.02.2022, much prior to the issuance of the alleged cheque. Therefore, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 came into operation and in terms of Section 17 of the Code, the management of the affairs of the corporate debtor stood vested in the Interim Resolution Professional and all bank accounts of the corporate debtor could be operated only under the instructions of the Interim Resolution Professional.

7. The Hon'ble Supreme Court in **Vishnoo Mittal v. Shakti Trading Co.(supra)**, while considering an identical issue, held that after commencement of CIRP, a suspended Director has no authority to operate the bank accounts of the corporate debtor or to comply with the statutory demand notice issued under Section 138 of the Act. It was held that since the management of the corporate debtor vests exclusively with the Interim Resolution Professional under Section 17 of the IBC, prosecution under Section 138 of the Act against such suspended Director cannot be sustained under the law. The relevant extract thereof is reproduced hereunder:-

> *"11. The bare reading of the above provision shows that the appellant did not have the capacity to fulfil the demand raised by the respondent by way of the notice issued under clause (c) of the proviso to Section 138 NI Act. When the notice was issued to the appellant, he was not in charge of the corporate debtor as he was*

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> *suspended from his position as the director of the corporate debtor as soon as IRP was appointed on 25.07.2018. Therefore, the powers vested with the board of directors were to be exercised by the IRP in accordance with the provisions of IBC. All the bank accounts of the corporate debtor were operating under the instructions of the IRP, hence, it was not possible for the appellant to repay the amount in light of section 17 of the IBC. Additionally, we have been informed on behalf of the appellant that, after the imposition of the moratorium, the IRP had made a public announcement inviting the claims from the creditors of the Corporate Debtor and the respondent has filed a claim with the IRP.*
>
> *12. Keeping in mind the above observations and distinguishing facts and circumstances of this case from that of P. Mohan Raj, we are of the considered view that the High Court ought to have quashed the case against the appellant by exercising its power under section 482 of the CrPC.*
>
> *13. Therefore, we allow this appeal by setting aside the impugned order dated 21.12.2021 and quash the summoning order dated 07.09.2018. Further, we hereby quash the complaint case no.15580/2018, pending before the Chief Judicial Magistrate Court, Chandigarh, filed by the respondent against the appellant."*

8. In the case in hand, the cheque in question was admittedly issued after commencement of the Corporate Insolvency Resolution Process. On the date of issuance of the cheque as well as on the date of issuance of the statutory notice, the petitioner had already ceased to exercise any control over the affairs of the company. The petitioner, therefore, neither possessed the authority to operate the bank accounts of the corporate debtor nor the legal capacity to comply with the demand notice issued under Section 138 of the Act.

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9. In view of the aforenoted facts and circumstances of the case, this Court is of the considered view that the continuation of the criminal proceedings against the petitioner would amount to an abuse of process of law and the same is liable to be set aside.

10. Consequently, the present petition is allowed and Complaint No. COMA-92605-2022 dated 05.12.2022 titled as "Vinod Kumar v. M/s Stan Auto Pvt. Ltd. and another", along with the summoning order dated 21.12.2022 (Annexure P-1) and all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

11. However, the respondent would be at liberty to pursue his claim before the competent forum including NCLT/Official Liquidator/Interim Resolution Professional in accordance with law.

12. Pending applications, if any, shall stand disposed of accordingly.

(H.S.GREWAL)
JUDGE

July 13, 2026
Renu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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