



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No. _____ of 2024
(@ SLP (Crl.) No. 13251 of 2023)**

Ravi Dhingra

...Appellant(s)

Versus

State of NCT of Delhi & Anr.

...Respondent(s)

With

**Criminal Appeal No. _____ of 2024
(@ SLP (Crl.) No. 15081 of 2023)**

**Criminal Appeal No. _____ of 2024
(@ SLP (Crl.) No. 15131 of 2023)**

**Criminal Appeal No. _____ of 2024
(@ SLP (Crl.) No. 15307 of 2023)**

**Criminal Appeal No. _____ of 2024
(@ SLP (Crl.) No. 16214 of 2023)**

J U D G M E N T

C.T. RAVIKUMAR, J.

Leave granted in all the captioned Special Leave
Petitions.

1. The captioned quintuplet appeals by special leave arise from a common judgment dated 21.08.2023 respectively in CrI. M.C. Nos.5981 of 2022, 5982 of 2022, 5975 of 2022, 5980 of 2022 and 5965 of 2022, passed by the High Court of Delhi at New Delhi. As per the impugned common judgment, the High Court dismissed the aforesaid Criminal Miscellaneous Cases filed by the self-same appellant herein under Section 482 of the Code of Criminal Procedure, 1973 (for short the "Cr.P.C.") seeking quashment of summoning orders in five complaint case Nos. viz., 49307 of 2016, 49308 of 2016, 49309 of 2016, 49310 of 2016, and 48700 of 2016 instituted under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short the "NI Act") and further proceedings arising from the said complaint cases as well as to set aside orders by which his applications for discharge, passed by the Metropolitan Magistrate, New Delhi District, Patiala House Courts, New Delhi in those complaint cases. All the aforesaid complaint cases were filed by the self-same complainant viz., M/s Pinnacle Capital Solution Pvt. Ltd. which is the respondent No.2 in all the captioned appeals.

2. The short facts necessary for the disposal of the captioned appeals are as under:

The second respondent-company was engaged in the business of rendering financial services in India as a registered Non-Banking Financial Company (NBFC) only and admittedly, the appellant was the authorised signatory of the accused company, namely, M/s Silverstar Fashions Private Limited that engaged in the business of manufacturing and exporting ready-made garments. The loan transaction(s) between the aforesaid companies and the subsequent issuance of cheques and their dishonour ultimately led to the filing of the aforementioned complaint cases alleging commission of offence under Section 138, NI Act. Since the parties in all the above appeals are the same, for convenient sake, hereafter in this judgment the accused-Ravi Dhingra is referred to as the 'appellant' and the second-respondent company viz., the complainant is referred to as the 'respondent'.

3. In all those cases, on the respective complaints filed by the self-same respondent, cognizance was taken, and they were taken on file by the learned Metropolitan Magistrate, New Delhi District, Patiala House Courts, New Delhi (for brevity 'the Magistrate'). In all the cases before the High Court, besides seeking

quashment of the summoning orders, the appellant herein has also challenged the orders dismissing the application seeking discharge in all the said complaint cases as also quashment of the aforesaid complaint cases and all proceedings emanating therefrom.

4. As per the impugned common order dated 21.08.2023 the High Court declined to exercise the power under Section 482, Cr. P.C. and consequently, dismissed the petitions qua the appellant. Hence, the captioned appeals.

5. Heard learned Senior Counsel appearing for the appellant and also the learned counsel appearing for the respondent.

6. The crux of the contention is that the complaint lacks the mandatorily required averment to maintain a complaint for commission of offence under Section 138 of the NI Act. To buttress the said contention, learned Senior Counsel relied upon the decision of this Court in ***Ashok Shewakramani & Ors. v. State of Andhra Pradesh & Anr.***¹

7. The law enunciated in the decision in ***Ashok Shewakramani's*** case (*supra*) is that **to maintain a**

¹ (2023) 8 SCC 473; 2023 INSC 692

complaint and to frame a charge under Section 138 of the NI Act, there must be a specific averment against the person concerned that he was in-charge of, and responsible for the company concerned in the matter of conduct of its business. This position is now well settled and is being followed with alacrity.

8. Taking note of the law thus settled by this Court, we have carefully perused the complaints. Though, the learned counsel appearing for the second-respondent in all these cases, took pains to convince us that the complaint concerned carried necessary averments required statutorily to maintain them however, on perusing the said complaints, we have no hesitation to hold that the aforesaid mandatorily required averments to attract an offence under Section 138 of the NI Act are conspicuously absent in all the complaint(s). To make the appellant to stand the trial, in such circumstances, would be nothing but abuse of the process of the Court. When that be the position, they are liable to be set aside in the light of *Ashok Shewakramani's* case (*supra*).

9. In the said circumstances, we are of the view that appellant has made out a case warranting quashment of the common order dated 21.08.2023 passed in CrI. M.C. Nos. 5981 of 2022, 5982 of 2022, 5975 of 2022, 5980 of

2022 and 5965 of 2022, passed by the High Court. Accordingly, we set aside the impugned common order dated 21.08.2023 passed by the High Court in the aforesaid Criminal Miscellaneous Cases. Consequently, the appeals are allowed. Accordingly, the complaint cases being 49307 of 2016, 49308 of 2016, 49309 of 2016, 49310 of 2016, and 48700 of 2016 on the files of the learned Metropolitan Magistrate, New Delhi District, Patiala House Courts, New Delhi and all further proceedings and orders including the summoning orders issued respectively in the said cases qua the appellant stand quashed and set aside.

10. Pending application(s), if any, shall stand disposed of.

....., J.
(C.T. Ravikumar)

....., J.
(Sanjay Karol)

New Delhi;
December 19, 2024