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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 28th October, 2025*
Pronounced on: 30th January, 2026

+ **CRL.M.C.4721/2017**

1. SANDHYA GUPTA

W/o Shri Satish Gupta

....Petitioner No.1

2. ABHISHEK GUPTA

S/o Shri Satish Gupta

...Petitioner No.2

Both residents of
1003, Jasminium-II,
Vatika City, Gurgaon
Haryana.

Both Petitioners through their Attorney
Kamal Madnani,
S/o Late Sh. M.G. Madnani,
R/o C-3/179, Janak Puri,
New Delhi

Through: Mr. Bhushan Kapur, Advocate.

versus

SHRI GANESH TRADERS

RZH-791-B, Gali No. 13,
Raj Nagar-II, Palam Colony
Near Jat Dharamshala
New Delhi-110045

....Respondent

Through: Mr. Lokesh Kumar, Advocate.

CRL.M.C.5207/2017 & CRL.M.A. 20487/2017 (stay)

1. SANDHYA GUPTA

W/o Shri Satish Gupta

....Petitioner No.1



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2. **ABHISHEK GUPTA**

S/o Shri Satish Gupta

...Petitioner No.2

Both residents of
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Haryana.

Petitioner No.2, through their Attorney
Kamal Madnani,
S/o Late Sh. M.G. Madnani,
R/o C-3/179, Janak Puri,
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Through: Mr. Bhushan Kapur, Advocate.

versus

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Near Jat Dharamshala
New Delhi-110045

....Respondent

Through: Mr. Lokesh Kumar, Advocate.

CRL.M.C.5208/2017 & CRL.M.A. 20489/2017 (stay)

1. **SANDHYA GUPTA**

W/o Shri Satish Gupta

....Petitioner No.1

2. **ABHISHEK GUPTA**

S/o Shri Satish Gupta

...Petitioner No.2

Both residents of
1003, Jasminium-II,
Vatika City, Gurgaon
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through their Attorney
Kamal Madnani,



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S/o Late Sh. M.G. Madnani,
R/o C-3/179, Janak Puri,
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...Petitioner No.2

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versus

SHRI GANESH TRADERS

RZH-791-B, Gali No. 13,
Raj Nagar-II, Palam Colony
Near Jat Dharamshala
New Delhi-110045

....Respondent

Through: Mr. Lokesh Kumar, Advocate.

CRL.M.C.5209/2017 & CRL.M.A. 20491/2017 (stay)**1. SANDHYA GUPTA**

W/o Shri Satish Gupta

....Petitioner No.1

2. ABHISHEK GUPTA

S/o Shri Satish Gupta

...Petitioner No.2

Both residents of
1003, Jasminium-II,
Vatika City, Gurgaon
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Petitioner No. 2, through their Attorney
Kamal Madnani,
S/o Late Sh. M.G. Madnani,
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New Delhi

Through: Mr. Bhushan Kapur, Advocate.

versus

SHRI GANESH TRADERS

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New Delhi-110045

....Respondent

Through: Mr. Lokesh Kumar, Advocate.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T****NEENA BANSAL KRISHNA, J.****CRL.M.A. 18823/2017 (Exemption) in CRL.M.C.4721/2017**

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CRL.M.C.4721/2017, CRL.M.C.5207/2017, CRL.M.C.5208/2017 & CRL.M.C.5209/2017

3. The aforesaid Petitions under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) have been filed on behalf of the Petitioners to challenge the *Criminal Complaint Nos. 4989424/2016, 4989842/2016, 4988950/2016 and 4989101/2016 respectively initiated under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'N.I. Act')* and also the Order dated 03.05.2017 *vide* which the Application seeking the dropping of the proceedings under Section 251 CrPC against the Accused Nos. 3 & 5, was dismissed.

4. ***Briefly stated***, the aforesaid Complaint Cases under S.138 N.I. Act, were filed by the Respondents against the Petitioners in respect of the dishonour of the cheques pertaining to the year 2014. The Respondents had asserted that they were dealing in the business of supplying materials with Sh. Rambir Singh, partner in Ganesh Traders were having their Office at RZH-791-B, Gali No. 13, Raj Nagar-II, Palam Colony, Near Jat Dharamshala, New Delhi-110045. Sh. Rambir Singh had authorized his wife



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to look after, manage and control the affairs of the Company. The building material was supplied to the Petitioners at Spaze Business Park, Sector-66, Gurgaon, Bhartiya Vidhya Bhawan, K.G. Marg, Connaught Place and Spaze Corporate Park, Gurgaon. Mr. Satish Gupta, one of the Director of the Company, had issued three cheques in the sum of Rs.5,00,000/- each, drawn on HDFC Bank, A/12, Shopping Mall, DLF Phase-I, Qutub Enclave, Gurgaon-122002, in discharge of their liabilities, towards the material supplied to them with an assurance that the cheques on presentation would be encashed but the cheques on presentation were dishonoured for the reason '*Debit not allowed*'.

5. After serving legal Notice, the Complaints under Section 138 of N.I. Act, were filed. The Petitioners were summoned *vide* Order ***dated 03.05.2017***.

6. The Petitioners filed an Application for dropping of the Complaints against them under Section 251 Cr.P.C., but the Application was dismissed *vide* Order dated 03.05.2017 by observing that the judgment of a larger bench is to be followed, and placed reliance on Subramaniam Sethuraman vs. State of Maharashtra, CrI. Appeal No. 1253 of 2002, wherein it was held that accused cannot be discharged during the framing of notice under Section 251 Cr.P.C. It held that the Accused No.3, who had sought discharge on the ground of being a sleeping Director, and Accused No.5, seeking discharge on the ground that he was not a director at the time of offence would have to both prove their case during the course of trial.

7. The Petitioners have **sought the quashing of the Complaints** on the **grounds** that the Complaint filed under Section 138 of N.I. Act, was bad in law. The Petitioners (Accused) had no legal liability of any nature *qua* the



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Respondents. The bare perusal of the Complaint demonstrates that there is no allegation or evidence against the Petitioners, to implicate them in the Complaint Case.

8. It has not been appreciated by the learned Metropolitan Magistrate that the **Petitioner No. 2, Mr. Abhishek Gupta** was not the signatory or the Director of the Accused Company at the time of issuance of cheque, which is evident from Form-32, obtained from the website of Registrar of Companies. It has also not been appreciated that the Petitioner No. 2, Mr. Abhishek Gupta had already resigned from the Company on 01.10.2013, while the cheques pertained to the year 2014; he has been erroneously dragged into the present Case.

9. Furthermore, Accused, **Ms. Sandhya Gupta** is only a house wife and at no point of time, was *managing day-to-day affairs* of the Accused Company. She was a **sleeping Director** and was not responsible for the day-to-day affairs of the Accused Company. It has been falsely alleged that the Petitioners being the Directors, were in charge and responsible for the day-to-day affairs of the Accused Company. The Petitioners in fact never dealt with the Complainant in any manner.

10. The Complaint also is altogether silent about the allegations in regard to the liability of the Petitioners. Not a single document has been filed to substantiate the allegations made in the Complaint. In a catena of Judgments, the Apex Court has held that if the Complaint is silent in regard to the role of the Directors of the Company, then no liability can be imputed on them and they are liable to be discharged.

11. In order to make the Directors liable for an offence committed by the Company, under Section 141 of the Act, there must be specific averments



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against the Directors showing how and in what manner they were responsible for the conduct of the affairs of the Company. The only averments against them is that they are responsible for day-to-day affairs of the Company. The entire Complaint is silent about the manner in which they were managing the affairs of the Company.

12. Hence, the prayer is made that the *Order dated 03.05.2017* dismissing the dropping of proceedings Application against the Petitioners, be set-aside and the Complaint be quashed.

13. The ***Respondents filed a Reply*** wherein a *preliminary objection* was taken that the Complaints were transferred to Gurgaon Court due to the Orders of the Hon'ble Supreme Court of India and thereafter, all the four Complaints were transferred back to Dwarka Court. All the four Accused were summoned before the Gurgaon Court and they had made a total payment of Rs.9,00,000/-, in order to settle the Settlement. All the four Directors, therefore, admitted their liability by making such payment, which amounts to admission that they are looking after and taking care of day-to-day affairs of the Company. The instant Petitions are, therefore, liable to be dismissed on the ground of concealment of the facts.

14. It is further asserted that there is no illegality or infirmity in the impugned Order dated 03.05.2017 whereby the Application for dropping the proceedings against the Petitioners, was dismissed. It is stated that the Application was filed under wrong provisions of law and was consequently dismissed with a reasoned Order. There is no ground to challenge the impugned Order.

15. It is further asserted that the ***Petitioner No. 1 Sandhya Gupta is not a sleeping Director***, but is actively involved in day-to-day affairs and the



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business activities of SP Contracts Private Limited. In case No. CC/6194/2017 filed under Section 138 of N.I. Act, titled *M/s Rathi Super Steel Ltd. vs. SP Contract*, before the Court of learned Metropolitan Magistrate, the cheque dated 10.06.2014, which was in question, had been signed by Accused /Petitioner No. 1, Ms. Sandhya Gupta, in favour of the Complainant. It sufficiently establishes that she was the authorised signatory of the Account of the Accused Company and therefore, was an active Director taking part in the day-to-day business. She not only had the right to sign the cheques, but also the Balance Sheets and the other documents of the Company. The CTC of the relevant documents i.e. Form No. 23 AC for the year 2010-2011, 2011-2012 are annexed in support thereof.

16. It is further submitted that the **Petitioner No. 2** Mr. Abhishek Gupta **was a director**, on the date of issuance of the cheques and was involved in the affairs of the Company.

17. *Mr. Satish Gupta, the Director/Accused No. 1* in Complaint Case bearing CC No. 4989424/2016 titled as “*Shree Ganesh Traders vs. SP Contract (P) Ltd. & Ors*”, was sick and was unable to take care of the daily business of the Company. Therefore, he had delegated his functions and powers to the Petitioners *herein*, who were looking after the affairs of the Company and were actively taking part in the affairs of the Company, on daily basis. Mr. Satish Gupta, husband of the Petitioner No. 1 and father of the Petitioner No. 2, expired last year, due to prolonged sickness.

18. The alleged resignation dated 01.10.2013 of the Petitioner No. 2, is a forged and fabricated document as the resigning Director i.e. Mr. Abhishek Gupta was not even in India, on the said date. Further, even on the date of entering into negotiations with the Respondent/Complainant; on the date of



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issuance of cheques; on the date of dishonour of the cheques; on the date of service of Notice of demand, Petitioner No. 2 was a Director, as per the record of the Registrar of Companies. The resignation is an afterthought, after the Complaints under N.I. Act, were filed against them and Petitioner No. 2 was summoned. The alleged resignation was uploaded on 11.07.2018 and the Stamp Paper was also purchased on 11.07.2018.

19. The Proprietor of the Complainant/Respondent, Mr. Rambir Singh was approached by the Petitioners i.e. Ms. Sandhya Gupta and Mr. Abhishek Gupta along with late Sh. Satish Gupta, who had expressed their intention to purchase the building material from the Respondent Firm. Both the Petitioners had also shown that they were the Directors in the Accused Company and both assured the security of payment against the goods supplied to them. They confirmed that though, there are two more Directors, namely, Sh. Satish Gupta (Managing Director) and Mr. Dinkar Dogra (Director), but all are equally responsible for day-to-day affairs of the Company.

20. It is further asserted that all these pleas as agitated in the present Petitions, were taken by the Petitioners in the Notice under Section 251 Cr.P.C. There is no ground for quashing the Petitions under Section 482 Cr.P.C. and must resort to the remedies available under Law to air their grievances.

21. Furthermore, the Petitioners had made a payment of Rs.9,00,000/-, before the Gurgaon Court, in order to settle the matter. Therefore, all the four Directors have a liability for the payment of the cheque amount. On merits, all the allegations made in the Petitions, were denied.



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22. A ***Rejoinder had been filed on behalf of the Petitioners*** wherein submissions are made that the Form 32, which is a public document, reflects that the Petitioner No. 2 was not a Director at the relevant point of time. Aside from making bald, general and vague allegations against the Petitioners, there are no specific averments to show the manner in which the Petitioners were responsible for the business of the Company and no criminal liability can be fastened on the Petitioners.

23. Reliance is placed on *N.K. Wahi vs. Shekhar Singh & Others*, AIR 2007 SC 1454. The other averments made in the Petitions, are reiterated.

24. ***Written Submissions have been filed on behalf of the Respondents***, who have asserted that the impugned Cheques were dishonoured on 14.07.2014, because of the reason '*Debit not allowed*'. This Court *vide* its Order dated 18.09.2014, had issued Notice in the Winding-up Petition and since the dishonour was prior in time, the Winding-Up Petition, has no bearing on the facts of this Case. The reference is made to *Kusum Ingots & Alloys Ltd. vs. Pannar Peterson Securities*, 2000 AIR 954.

25. It is further submitted that the Petitioners had filed signatory details taken on 09.11.2017 from the web portal of Ministry of Corporate Affairs, which is incomplete and does not show the resignation of the Petitioner No. 2. The date of resignation is alleged to be 01.10.2013, which was approved by the Board of Directors on 07.10.2013. It is submitted that the copy of Form No.32, has not been filed to show its acceptance with Registrar of Companies and the date of payment of fees for the said change. The resignation is effective only when the fee is paid and the change is made in the record. The same can be decided only after adducing the evidence.



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Reference is placed on Malwa Cotton and Spinning Mills Ltd. vs. Singh Sidhu, 2008 AIR Supreme Court 3273.

26. Furthermore, the Petitioners have admitted that the Petitioner No. 1, namely, Ms. Sandhu Gupta was an authorised signatory in the SP Contracts Private Limited, which is a position of responsibility and impliedly admitted the participation in the day-to-day affairs in her capacity as a Director in the Accused Company. The claim that she was only a sleeping partner, is falsified.

27. The blatant admissions of the Petitioners in their Petitions, do not justify quashing of the Complaint or the Summoning Order. It is, therefore, submitted that the Petitions are liable to be rejected.

28. Learned counsel for the Petitioners in support of their Case, have relied upon K.S. Mehta vs. M/s Morgan Securities & Credits Pvt. Ltd., MANU AIR 2025 SC 1607.

29. Learned counsel for the Respondents, has placed reliance on the Case of Bijoy Kumar Moni vs. Paresh Manna & Anr., Crl. Appeal No. 5556/2024, decided on 20.12.2024.

Submissions heard and the record perused.

30. The Complaints under Section 138/142 of the Negotiable Instruments Act were filed by the Complainant, Ganesh Traders against the Company i.e. S.P. Contract Private Limited, as well as its four Directors, namely, Sh. Satish Gupta (Managing Director, since deceased) Ms. Sandhya Gupta, Mr. Dinkar Dogra and Mr. Abhishek Gupta.

Liability Of The Director/Ms. Sandhya Gupta:

31. The Petitioner, Ms. Sandhya Gupta had sought a discharge on the ground that she was a sleeping Director and was not involved in the day-to-



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day affairs of the Company. The most significant document is Form-32 of the Company, *which shows that she was a Director in the Company*. Not only this, she was a signatory to the cheques and also was a co-signatory to the Balance Sheets, which were being submitted on behalf of the Company. For her to claim that she was not involved in the affairs of the Company, is not supported by the documents on record. Pertinently, she has claimed herself to be the Sleeping Director, which is not borne from the record. The Summoning Order against Ms. Sandhya Gupta, is justified as the documents clearly reflect that *she was involved in the day-to-day affairs of the Company*. It is her defence that she was not actively involved, which she may prove during the trial. At this stage, the Summoning Order cannot be faulted and she has been rightly summoned as an Accused.

Liability Of The Director/Abhishek Gupta:

32. The Petitioner, Mr. Abhishek, who is the son of Mr. Satish Gupta, has asserted that he had resigned from the Company on 01.10.2013 and therefore, cannot be held liable for the affairs of the Company after post his resignation. Pertinently, the cheques are claimed to have been issued in May, 2014 and were dishonoured in July, 2014. Therefore, it becomes significant to consider whether Abhishek Gupta indeed had resigned on 01.10.2013 and thus, cannot be made liable for the affairs of the Company post his resignation.

33. The first document of relevance is the Form-32, which clearly reflects that he was admitted as a Director on **15.11.2013 and resigned on 01.10.2013**. His resignation is also supported by Minutes of the Meeting of the Board of Directors held on 07.10.2013 wherein the resignation tendered



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by Mr. Abhishek Gupta, was accepted w.e.f. 07.10.2023. The resignation of Mr. Abhishek Gupta on 01.10.2013 is supported by Form-32.

34. It is claimed on behalf of the Respondent that the bare perusal of this Form-32, shows that it has been manipulated and submitted only in the year 2018. It is claimed that his resignation is being created only to escape the liability under these Complaint Cases.

35. In this context, it would be pertinent to refer to Section 168 Companies Act, 2013, **Resignation of Director**. It provides that a Director may resign from his Office by giving a Notice in writing to the Company and the Board shall on receipt of such Notice, take the note of the same and shall intimate the Registrar in such manner, within such time and in such Form as may be prescribed and shall also place the fact of such resignation in the report of Directors be laid in the immediately following General Meeting of the Company. An Amendment was made in the **Proviso** w.e.f. 07.05.2018 wherein it was provided that the Director may also forward the copy of his Resignation along with the detailed reasons for the resignation, to the Registrar, within 30 days of his resignation.

36. In the present Case, the Form-32 clearly records that Mr. Abhishek Gupta had resigned from the Company on 01.10.2013, which is fully corroborated by the Minutes of the Meeting of the Board of Directors. There is cogent independent evidence on record, reflecting the resignation of Mr. Abhishek Gupta before the cause of action arose in the aforesaid Complaints under Section 138 NI Act. In no way, can he be said to be involved in the affairs of the Company, after his resignation.



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37. Mr. Abhishek Gupta, therefore, is entitled to be discharged and the Summoning Order dated 03.05.2017 vis-à-vis Mr. Abhishek Gupta, is hereby quashed.

Conclusion:

38. In view of the aforesaid discussion, the Summoning Order dated 03.05.2017 vis-à-vis Ms. Sandhya Gupta is upheld, while it is set-aside in respect of Abhishek Gupta, who is discharged in the Complaints under Section 138 of N.I. Act.

39. The Petitions, along with pending Applications, are accordingly, disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 30, 2026/RS