



Cheque Dishonour in the Aftermath of Insolvency: A Critical Analysis of *Farhad Suri v. Praveen Choudhary* [2025:DHC:11418]

Authored by: Lokesh Bhola, Managing Partner and Abhishekh Singh Chauhan, Associate

I. Introduction

The offence of cheque dishonour under Section 138 of the Negotiable Instruments Act, 1881 ("NI Act") occupies a peculiar space in Indian commercial jurisprudence. Over time, its utility as a confidence-building mechanism has increasingly given way to its misuse as a coercive recovery tool. This tendency becomes especially pronounced when cheque dishonour proceedings are initiated notwithstanding statutory bars and legal impossibilities created by insolvency proceedings under the Insolvency and Bankruptcy Code, 2016 ("IBC").

The Delhi High Court's judgment dated 16.12.2025 in *CRL.M.C. 1347/2021* and connected matters is a significant corrective in this context. The Court was required to decide whether criminal prosecution under Section 138 NI Act could be sustained where cheques were dishonoured with the remark "ACCOUNT BLOCKED", after the corporate debtor had entered Corporate Insolvency Resolution Process ("CIRP") and thereafter liquidation.

What distinguishes this judgment is not merely the result, but the methodology adopted by the Court. Rather than treating insolvency as a peripheral defence, the Court placed it at the centre of its analysis, systematically engaging with Supreme Court and High Court precedents to clarify the relationship between cheque dishonour liability and statutory displacement of corporate control. This article undertakes a detailed examination of the factual matrix, the Court's findings, and its engagement with precedent, and argues that the judgment represents a mature consolidation of the law at the intersection of criminal and insolvency regimes.

II. Factual Matrix and Procedural History

The litigation arose from three separate complaints under Section 138 NI Act filed by private complainants alleging non-payment of amounts advanced as friendly loans and unpaid business liabilities. The factual allegations spanned transactions dating back to 2016, including advances made through RTGS and alleged settlements arrived at in 2020. Pursuant to such alleged settlements, three cheques, each dated 07.09.2020, were stated to have been issued either on behalf of the company or by its directors.¹

All three cheques were presented for encashment in October 2020 and were returned unpaid with the endorsement "ACCOUNT BLOCKED". Statutory demand notices were thereafter issued, followed by complaints under Section 138 NI Act, culminating in summoning orders passed by the learned Magistrate in January 2021.

¹ Id., ¶¶ 9, 15, 19.



What was not in dispute and assumed critical importance was the insolvency history of the corporate debtor. By an order dated 15.04.2019, the National Company Law Tribunal admitted the accused company into CIRP. In compliance with Sections 17 and 18 IBC, all powers of management, including operation of bank accounts and custody of cheque books, stood transferred to the Interim Resolution Professional ("IRP"). Subsequently, on 03.12.2019, liquidation was ordered, and a Liquidator assumed exclusive control over the company's affairs.²

Despite these developments, the complaints proceeded on the premise that the petitioners, as former directors, were liable under Sections 138 and 141 NI Act. The petitioners/accused persons approached the High Court under Section 482 Cr.P.C. seeking quashing of the summoning orders and the complaints themselves.

III. Statutory Architecture: NI Act vis-à-vis IBC

Section 138 NI Act criminalises dishonour of a cheque drawn on an account "maintained by" the drawer for discharge of a legally enforceable debt, provided the dishonour occurs due to insufficiency of funds or analogous reasons. Section 141 extends criminal liability to persons in charge of and responsible for the conduct of a company's business.

In contrast, the IBC introduces a statutory rupture upon admission of CIRP. Sections 17 and 18 effectuate a complete transfer of management and financial control from the board of directors to the IRP, while Section 14 imposes a moratorium restraining proceedings and prohibiting payments except as permitted by law. Upon liquidation, this displacement of control becomes absolute.

The legal issue before the Court was therefore not merely procedural, but structural: can criminal liability under Section 138 NI Act attach to persons who are, by statute, divested of authority to operate the account on which the cheque is drawn?

IV. Moratorium and Criminal Proceedings: Application of *P. Mohanraj*

The Court commenced its analysis by placing reliance on the Supreme Court's authoritative decision in *P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd.*³, which held that proceedings under Section 138 NI Act are covered by the moratorium under Section 14 IBC insofar as the corporate debtor is concerned.

However, the Delhi High Court carefully noted that *P. Mohanraj* does not permit indiscriminate continuation of proceedings against directors. While the Supreme Court clarified that natural persons are not shielded by the corporate moratorium, such liability continues only where the statutory requirements of Section 138 read with Section 141 NI Act are otherwise satisfied.

² Id., ¶¶ 25–27.

³ *P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd.*, (2021) 6 SCC 258.



Thus, *P. Mohanraj* was used as a doctrinal gateway: insolvency does not automatically extinguish personal liability, but it fundamentally alters the conditions under which such liability can arise.

V. Loss of Control as the Decisive Factor: *Ganesh Chandra Bamrana*

The fulcrum of the Court's reasoning lies in its reliance on the coordinate bench decision in *Ganesh Chandra Bamrana v. Rukmani Gupta*.⁴ In that case, cheques were issued after appointment of the IRP and were dishonoured due to account blockage. The Court held that once CIRP commences, directors lose authority to operate bank accounts, and consequently cannot be prosecuted for dishonour of cheques presented thereafter.

The present judgment treats *Ganesh Chandra Bamrana* as *pari materia* and adopts its ratio without dilution. The Delhi High Court emphasised that control over the account at the time of presentation of the cheque is indispensable. Where such control has ceased by operation of law, the very foundation of the offence collapses.

This reasoning decisively rejects a formalistic approach that seeks to fasten liability merely on the basis of past directorship or alleged issuance, without examining legal capacity at the relevant time.

VI. "Account Maintained by Him": Interpretation through *Rajesh Meena*

A crucial statutory ingredient of Section 138 NI Act is that the cheque must be drawn on an account "maintained by" the drawer. The Court's interpretation of this phrase was guided by *Rajesh Meena v. State of Haryana*.⁵

In *Rajesh Meena*, the Punjab and Haryana High Court held that "maintenance" of an account implies not mere ownership or historical association, but effective authority to govern transactions. An account frozen due to statutory intervention cannot be said to be maintained by the accused, even if the account formally belongs to them.

Applying this principle, the Delhi High Court held that once accounts are taken over by the IRP or Liquidator, former directors cannot be said to maintain such accounts. The phrase "account maintained by him" was thus given a purposive, control-centric interpretation, consistent with both criminal jurisprudence and insolvency law.

VII. Nature of Dishonour: Distinguishing *Ceasefire Industries*

The Court further analysed whether dishonour on the ground "ACCOUNT BLOCKED" satisfies the requirement of dishonour for insufficiency of funds. In doing so, it relied on *Ceasefire Industries Ltd. v. State*⁶, where it was held that not every dishonour attracts

⁴ *Ganesh Chandra Bamrana v. Rukmani Gupta*, CRL.M.C. 6170/2022 (Delhi HC, 17 Dec. 2024).

⁵ *Rajesh Meena v. State of Haryana*, CRM-M-14537-2018 (P&H HC, 1 July 2019)

⁶ *Ceasefire Industries Ltd. v. State*, 2017 SCC OnLine Del 8280.



Section 138 NI Act, and that even reasons such as “account closed” or “payment stopped” fall within its ambit only when attributable to the drawer’s conduct.

Building on this reasoning, the Court held that account blockage due to insolvency proceedings is qualitatively different. Such dishonour arises from legal impossibility, not from financial default or culpable conduct. Consequently, the penal provision cannot be invoked.

This finding preserves the fault-based character of Section 138 and prevents its conversion into a strict liability offence.

VIII. Vicarious Liability After Statutory Displacement: *Govind Prasad Todi and Vishnoo Mittal*

The Court also relied on *Govind Prasad Todi v. State of NCT of Delhi*⁷, which held that once CIRP commences, directors cease to be in charge of the company’s affairs, as control vests exclusively in the IRP.

Further reinforcement was drawn from the Supreme Court’s decision in *Vishnoo Mittal v. Shakti Trading*⁸, where proceedings under Section 138 NI Act were held unsustainable against a director who had been statutorily suspended upon appointment of the IRP.

Together, these judgments were used to underscore that vicarious liability under Section 141 NI Act cannot survive statutory displacement of management. Criminal law cannot punish individuals for failing to perform acts which the law itself forbids them from performing.

IX. Ancillary Ground: Time-Barred Debt

Although the Court ultimately quashed the proceedings on insolvency-related grounds, it also noted—by reference to *Sasseriyl Joseph v. Devassia*⁹ and *Girdhari Lal Rathie v. P.T.V. Ramanujachari*¹⁰—that cheques issued towards time-barred debts do not represent legally enforceable liabilities under Section 138 NI Act.¹⁰

This observation reinforces the Court’s broader approach: Section 138 cannot be invoked in abstraction from substantive legal validity of the underlying liability.

X. Conclusion

The Delhi High Court’s judgment represents a doctrinally coherent reconciliation of Section 138 NI Act with the IBC. By grounding criminal liability in actual control, legal

⁷ Govind Prasad Todi v. State of NCT of Delhi, 2023 SCC OnLine Del 3717.

⁸ Vishnoo Mittal v. Shakti Trading, 2025 SCC OnLine SC 558.

⁹ Sasseriyl Joseph v. Devassia, SLP (Crl.) No. 1785/2001

¹⁰ Girdhari Lal Rathie v. P.T.V. Ramanujachari, 1997 (2) Crimes 658 (AP)



capacity, and culpable dishonour, the Court has curtailed the growing tendency to weaponize cheque dishonour proceedings in insolvency contexts.

Through careful engagement with *P. Mohanraj*, *Ganesh Chandra Bamrana*, *Rajesh Meena*, *Ceasefire Industries*, *Govind Prasad Todj*, and *Vishnoo Mittal*, the Court has ensured continuity with precedent while clarifying the law's trajectory. The judgment stands as a clear signal that insolvency is a legal watershed, and that criminal law must respect the statutory consequences that flow from it.
