

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT INDORE**  
**BEFORE**

**HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA**

**ON THE 21ST DAY OF SEPTEMBER, 2023**

**MISC. CRIMINAL CASE No. 12375 of 2022**

**BETWEEN:-**

1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)
2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)
3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)
4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)

**.....PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.**  
**COMPANY HAVING ITS REGISTERED OFFICE AT:**

**SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)**

**MISC. CRIMINAL CASE No. 12360 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

**(SHRI YASHPAL RATHORE, ADVOCATE)**

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)**

**MISC. CRIMINAL CASE No. 12364 of 2022****BETWEEN:-**

1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)
2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)
3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)
4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)

..... PETITIONERS

*(SHRI YASHPAL RATHORE, ADVOCATE)*

**AND**

AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)

.....RESPONDENT

*(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)*

**MISC. CRIMINAL CASE No. 12368 of 2022****BETWEEN:-**

1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.

**COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**

- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....PETITIONERS**

**(SHRI YASHPAL RATHORE, ADVOCATE)**

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)**

**MISC. CRIMINAL CASE No. 12371 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS**

**OCCUPATION: BUSINESS**

**DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**

- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)***

**MISC. CRIMINAL CASE No. 12373 of 2022****BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA**

**AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**

- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)***

**MISC. CRIMINAL CASE No. 12379 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA**

**AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)***

**MISC. CRIMINAL CASE No. 12380 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR**

**DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)***

**MISC. CRIMINAL CASE No. 12382 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

***(SHRI YASHPAL RATHORE, ADVOCATE)***

**AND**



**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)**

**MISC. CRIMINAL CASE No. 12383 of 2022**

**BETWEEN:-**

- 1. ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 2. RAMANVEERSINGH S/O RATANSINGH ARORA  
AGED ABOUT 41 YEARS  
OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT DHAR (MADHYA PRADESH)**
- 3. SANJAY KUMAR S/O VIJENDRA SHRIVASTAVA  
AGED ABOUT 34 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT. LTD.  
ADDRESS:33 SHRI VINAYAK TOWNSHIP, DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)**
- 4. RAVINDRAKAUR ARORA W/O RATANSINGH ARORA  
AGED ABOUT 67 YEARS, OCCUPATION: BUSINESS  
DIRECTOR ASIAN SMILE CONSULTANCY VENTURES INDIA PVT LTD.  
ADDRESS:33, SHRI VINAYAKA TOWNSHIP DEVGURADIYA  
DISTRICT INDORE (MADHYA PRADESH)  
CORRECT ADDRESS: LAXMIBAI NAGAR, MANDAV NAKA DHAR  
DISTRICT INDORE (MADHYA PRADESH)**

**..... PETITIONERS**

**(SHRI YASHPAL RATHORE, ADVOCATE)**

**AND**

**AJIT CLUB AND RESORTS PVT. LTD.  
COMPANY HAVING ITS REGISTERED OFFICE AT:  
SECTOR A, BHAKHTAWAR RAM NAGAR**

**DISTRICT INDORE (MADHYA PRADESH)****.....RESPONDENT****(SHRI V.K. JAIN, SR. ADVOCATE WITH SHRI DIVYANSH LUNIYA, ADVOCATE)****Reserved on : 12.09.2023****Pronounced on : 21.09.2023**

*These petitions having been heard and reserved for orders, coming on for pronouncement this day, the Court has pronounced the following:*

**ORDER**

Heard.

All these petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973, by the petitioners/accused persons, Nos.1 – 4, for quashment of order of cognizance and all further proceedings/case in criminal complaints, u/S 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the “NI Act”) pending before JMFC, Mhow, District Indore, as per the details given below:-

<b>S. No.</b>	<b>MCRC No.</b>	<b>Date of Order of cognizance</b>	<b>Criminal Complaint No.</b>	<b>Cheque No.</b>	<b>Date of issue</b>	<b>Amount in Rs.</b>
1	12375/2022	16/07/21	2780/2021	000505	10/12/20	5,75,000/-
2	12360/2022	16/07/21	2779/2021	000506	10/01/21	6,61,250/-
3	12364/2022	22/10/21	6915/2021	000513	10/08/21	6,61,250/-
4	12368/2022	16/07/21	2773/2021	000509	10/04/21	6,61,250/-
5	12371/2022	16/07/21	2772/2021	000504	10/11/20	5,75,000/-
6	12373/2022	08/10/21	4545/2021	000510	10/05/21	6,61,250/-
7	12379/2022	08/10/21	4544/2021	000511	10/06/21	6,61,250/-
8	12380/2022	16/07/21	6472/2021	000507	10/02/21	6,61,250/-
9	12382/2022	22/10/21	6916/2021	000512	10/07/21	6,61,250/-
10	12383/2022	16/07/21	2774/2021	000508	10/03/21	6,61,250/-

2. Brief facts of all the cases in short are that petitioner/accused No.1 Asian Smile Consultancy Ventures India is a private limited company where petitioners/accused persons Nos.2–4, Ramanveer Singh, Sanjay Kumar and Ravindra Kaur Arora respectively, are designated as director/manager/managing director. Since 15.06.2018, the petitioners by registered lease, are the lessee of Water Park campus as Touch Wood Resort Indore, Gokanya, Tehsil Dr. Ambedkar Nagar, Mhow (*hereinafter referred as the "lease property:)* for 05 years built by the complainant/respondent - Ajit Club & Resorts Pvt. Ltd., in an area of 10,000/- sqft. According to the agreement of lease (Annexure A-4), the rent of the lease property was to be paid on monthly basis for 05 years by the petitioners/accused persons to the complainant/respondent by means of cheque, as per the amounts decided in the lease agreement. 10 distinct cheques were issued on behalf of the petitioner/accused No.1 and signed by petitioner/accused No.4 on distinct dates of distinct amounts were issued for the payment of rent of the lease property in favour of the complainant, details of which are mentioned in paragraph-1 of this order.

4. When the cheques were presented in the bank, they were dishonoured and returned with an endorsement "Insufficient Fund". After due legal compliance, a private complaint was made by the complainant u/S 200 of Cr.P.C. u/S 138 of the NI Act and 420 of IPC. Accused No.5 Ratan Singh Arora had already died before the incident took place. Learned Trial Court has taken cognizance u/S 138 of the NI Act against the petitioners.

5. Learned counsel for the petitioners/accused persons submits that

petitioner Nos.2 & 3 are not the signatory of the said cheque. There is no specific role and allegation against the petitioners. It is also submitted that it is nowhere averred in the complaint that petitioner Nos.2 & 3 were in charge and responsible for the business activities of the company. Therefore, it is prayed that to meet the ends of justice, this Court shall exercise its inherent power u/S 482 of Cr.P.C. and quash the proceedings in the criminal complaints instituted upon the petitioners. No other point is raised by the learned counsel for the petitioners. Learned counsel has placed reliance upon the cases of *S.M.S. Pharmaceuticals Ltd. V Neeta Bhalla and Anr. [2007 (3) M.P.L.J. 275]* and *N.K. Wahi V Shekhar Singh and Ors. [(2007) 9 SCC 481]*.

6. Learned counsel for the respondent/complainant has submitted that petitioner No.4 had signed the cheques on behalf of petitioner/accused No.1, i.e. company, wherein petitioners/accused person Nos.2–4 are directors/managers/managing directors of the company/accused No.1. It is further submitted that specific role and allegation are raised against the petitioners in the complaint. Petitioners are clearly mentioned to be in charge and responsible for the conduct of business of the company. Hence, the petitions deserve to be dismissed. Learned counsel has placed reliance upon the cases of *Sunita Palita and Ors. V M/s Panchami Stone Quarry [2022 LiveLaw (SC) 647]*; *A. Murali Mohan V State of A.P. and Anr. [(2004) 1 DCR 636]*; *K.K. Ahuja V V.K. Vora and Anr. [(2009) 10 SCC 48]* and *K.S. Jayanth Kumar and Ors. V B.N.P. Paribas, Rep. by its General Manager [2004 (1) DCR 559]*.

7. I have heard learned counsels for the parties and perused the records.

8. For deciding the matter, it is apposite to reproduce Section 141 of the NI Act, which runs as under:-

*“141. Offences by companies.— (1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

*Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:*

*[Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]*

*(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such*

*director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

*Explanation.—For the purposes of this section, —*

*(a) “company” means any body corporate and includes a firm or other association of individuals; and*

*(b) “director”, in relation to a firm, means a partner in the firm.”*

9. In the case of ***S.P. Mani And Mohan Dairy V Dr. Snehalatha Elangovan [2022 LiveLaw SC 772]***, the Apex Court has held as under:-

*“33. Thus, the legal principles discernible from the aforesaid decision of this Court may be summarised as under:-*

*(a) Vicarious liability can be fastened on those who are incharge of and responsible to the company or firm for the conduct of its business. For the purpose of Section 141, the firm comes within the ambit of a company;*

*(b) It is not necessary to reproduce the language of Section 141 verbatim in the complaint since the complaint is required to be read as a whole;*

*(c) If the substance of the allegations made in the complaint fulfil the requirements of Section 141, the complaint has to proceed in regards the law.*

*(d) In construing a complaint a hyper-technical approach should not be adopted so as to quash the same.*

*(e) The laudable object of preventing bouncing of cheques and sustaining the credibility of commercial transactions resulting in the enactment of Sections 138 and 141 respectively should be kept in mind by the Court concerned.*

*(f) These provisions create a statutory presumption of dishonesty exposing a person to criminal liability if payment is not made within the statutory period even after the issue of notice.*

*(g) The power of quashing should be exercised very sparingly and where, read as a whole, the factual foundation for the offence has been laid in the complaint, it should not be quashed.*

*(h) The Court concerned would owe a duty to discharge the accused if taking everything stated in the complaint is correct and construing the allegations made therein liberally in favour of the complainant, the ingredients of the offence are altogether lacking.”*

**10.** In the case of ***Sunita Palita and Ors. (Supra)*** the following was held by the Apex court in paragraph 43:-

*“43. Liability depends on the role one plays in the affairs of a company and not on designation or status alone as held by this Court in S.M.S. Pharmaceuticals Ltd. (supra). The materials on record clearly show that these Appellants were independent, non-executive Directors of the company. As held by this Court in Pooja Ravinder Devidasani v. State of Maharashtra and Anr. (supra) a non-Executive Director is not involved in the day-to-day affairs of the company or in the running of its business. Such Director is in no*

*way responsible for the day-to-day running of the Accused Company. Moreover, when a complaint is filed against a Director of the company, who is not the signatory of the dishonoured cheque, specific averments have to be made in the pleadings to substantiate the contention in the complaint, that such Director was in charge of and responsible for conduct of the business of the Company or the Company, unless such Director is the designated Managing Director or Joint Managing Director who would obviously be responsible for the company and/or its business and affairs.”*

*“37. At this stage, we should look into the decision of this Court in the case of K.K. Ahuja v. V.K. Vora, (2009) 10 SCC 48, in K.K. Ahuja (supra), wherein this Court discussed the principles of vicarious liability of the officers of a company in respect of dishonour of a cheque and held-*

*“27. The position under section 141 of the Act can be summarized thus: (i) If the accused is the Managing Director or a Joint Managing Director, it is not necessary to make an averment in the complaint that he is in charge of, and is responsible to the company, for the conduct of the business of the company. It is sufficient if an averment is made that the accused was the Managing Director or Joint Managing Director at the relevant time. This is because the prefix “Managing” to the word “Director” makes it clear that they were incharge of and are responsible to the company, for the conduct of the business of the company.*



*(ii) In the case of a director or an officer of the company who signed the cheque on behalf of the company, there is no need to make a specific averment that he was in charge of and was responsible to the company, for the conduct of the business of the company or make any specific allegation about consent, connivance or negligence. The very fact that the dishonoured cheque was signed by him on behalf of the company, would give rise to responsibility under sub-section (2) of Section 141.*

*(iii) In the case of a Director, Secretary or Manager (as defined in Section 2(24) of the Companies Act ) or a person referred to in clauses (e) and (f) of section 5 of Companies Act, an averment in the complaint that he was in charge of, and was responsible to the company, for the conduct of the business of the company is necessary to bring the case under section 141(1) of the Act. No further averment would be necessary in the complaint, though some particulars will be desirable. They can also be made liable under Section 141(2) by making necessary averments relating to consent and connivance or negligence, in the complaint, to bring the matter under that subsection.*

*(iv) Other Officers of a company cannot be made liable under sub-section (1) of Section 141. Other officers of a company can be made liable only under sub-section (2) of Section 141, by averring in the complaint their position and duties in the*

*company and their role in regard to the issue and dishonour of the cheque, disclosing consent, connivance or negligence.”*

**11.** From perusal of the aforementioned provisions of law and case laws, it is clear that u/S 141 of the NI Act, when an offence u/S 138 of the NI Act, i.e. Dishonour of Cheque, is committed by a company, then every person who, at the time the offence was committed, was in charge of and responsible to, the affairs of business of such company shall be guilty alongwith the company. Further, it is provided that if such person proves that the said offence was committed without his knowledge or he had exercised all due diligence to prevent the commission of such offence, he shall not be held liable for such offence. Thus, this proviso adds liability on such person/director to prove that he had no knowledge of such act or that he had adopted measure to stop it.

**12.** In the instant case, it is not disputed that petitioner No.1 is a private limited company and petitioner No.4 being a director, has issued all the questioned cheques on behalf of petitioner No.1/ accused company. It is also not disputed by the petitioners that at the relevant time, petitioner Nos.2 & 3 were director/manger/managing director of the petitioner No.1/accused company. Therefore, accused Nos.2 & 3 are also vicariously liable for the act of petitioner No.1/ accused company. Hence, they were in-charge of and are responsible for the company for its conduct of business. The petitioners have not filed any sterling incontrovertible material or acceptable circumstances to substantiate their contention to show that petitioner Nos.2 & 3 are not liable for the alleged offence. Therefore, prima facie it appears that petitioner Nos.1 – 4 are liable for the

alleged offence. Hence, learned Trial Court has rightly taken cognizance against the petitioners for the alleged offence.

**13.** Though, it has been submitted by learned counsel for the petitioners that learned Trial Court has issued non-bailable warrant against the petitioners, therefore, order of arrest warrant may be quashed and party may be given fixed date for the appearance before the Trial Court, in this respect learned counsel for the respondent/complainant has given assurance that if the petitioners appear on the given date before learned Trial Court and file application for bail before learned Trial Court, the complainant will not raise any objection for grant of bail to the petitioners. As it is found that learned Trial Court has rightly taken cognizance against the petitioners for the alleged offence, the petitions sans merits, therefore, non-bailable warrant issued against the petitioners cannot be quashed by this Court.

**14.** Resultantly, all the petitions are hereby **dismissed**.

**15.** It is directed that both the parties shall appear before learned Trial Court on **10.10.2023**.

**(PRAKASH CHANDRA GUPTA)**  
**JUDGE**